United States Court of Appeals for the Second Circuit



APPENDIX

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United States Court of Appeals

For the Second Circuit.

LILLIAN STULL,

Plaintiff,

NORMAN J. GREENE, WALTER C. JAMOUNEAU, CHARLES W. POOL, R. K. GRIFFIN, HOWARD PIPER, THOMAS F. PIPER, WILLIAM T. PIPER, JR., WILLIAM T. PIPER, GRUMMAN AIRCRAFT ENGINEERING CORPORATION and CRIS-CRAFT INDUSTRIES, INC., and PIPER AIRCRAFT CORPORATION,

LILLIAN STULL,

Plaintiff-Appellant,

CHARLES W. POOL, WALTER C. JAMOUNEAU, R. K. GRIFFIN, NORMAN J. GREENE, HOWARD PIPER, THOMAS F. PIPER, WILLIAM T. PIPER, JR., and WILLIAM T. PIPER, JR., THOMAS F. PIPER and HOWARD PIPER, as Executors of the Estate of WILLIAM T. PIPER, Deceased, PIPER AIRCRAFT CORPORATION, and BENGOR PUNTA CORPORATION, Defendants-Appellees.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK.

APPENDIX.

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New York, N. Y. 10001 594-5300.

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Attorneys for Defendants-Appellees, Charles W.
Pool, Walter C. Jumouneau, R. K. Griffin,
Howard Piper, William T. Piper, Jr., and
William T. Piper, Jr., and Howard Piper
as Executors of the Estate of William T.
Piper, Deceased, and Piper Aircraft Corporation. poration,

on, 30 Rockefeller Plaza, New York, N. Y.

EBSTER SHEFFIELD FLEISCHMANN HITCHCOCK & BROOKFIELD,

Attorneys for Defendant-Appellee,
Bangor Punta Corporation,
One Rockefeller Plaza,

New York, N. Y.

THE REPORTER COMPANY, INC., New York, N. Y. 10007-212 782-6978-1974 (4261)

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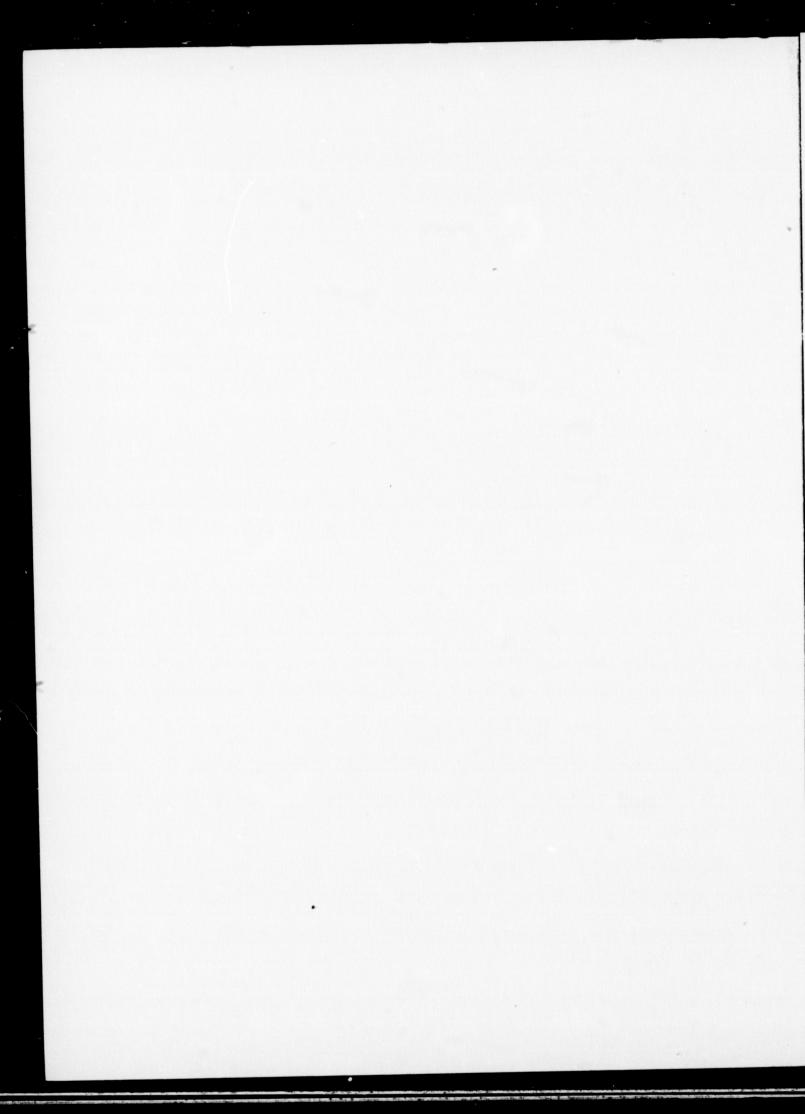
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UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT.

·x

LILLIAN STULL,

Plaintiff,

υ.

NORMAN J. GREENE, WALTER C. JAMOUNEAU, CHARLES W. POOL, R. K. GRIFFIN, HOWARD PIPER, THOMAS F. PIPER, WILLIAM T. PIPER, JR., WILLIAM T. PIPER, GRUMMAN AIRCRAFT ENGINEERING CORPORATION and CRIS-CRAFT INDUSTRIES, INC., and PIPER AIRCRAFT CORPORATION,

Defendants.

v

LILLIAN STULL,

Plaintiff-Appellant,

υ.

CHARLES W. POOL, WALTER C. JAMOUNEAU, R. K. GRIFFIN,
NORMAN J. GREENE, HOWARD PIPER, THOMAS F. PIPER,
WILLIAM T. PIPER, JR. and WILLIAM T. PIPER JR.
THOMAS F. PIPER and HOWARD PIPER, as Executors
of the Estate of William T. Piper, Deceased,
PIPER AIRCRAFT COPPORATION, and BENGOR PUNTA
CORPORATION,

Defendants-Appellees.

·x

DOCKET ENTRIES (STULL V. GREENE).

DOCKST EVENT V. GREENE)

69 Civil hho Lillian Stull vs. Norman J. Oreone ot. 1. 69 Civil hho

	SUGGE CARTER	Tel.
DATE	PROCEEDINGS	Date Orto
F. b. J-62	Filed complaint and issued summons	
ab 4.69	Filed an Order that Richard J. Stull or Report A. Stull of Fay Schutzlerger, or Guendolin A. connelly be permitted to serve augmons and complaint - CLIERK	100
	serve summons and complaint - CLLERK	
	C	-
06.20.69	Filed Doft (Grummand) notice to take deposition of Lillian Stull	
1.1b.26.69	Filed stip and order extending until 3.250. Edelstein Filed stip and order extending time for Neft Chris-Craft Ind.	
,	o move or answer until 3X21/69 Edlestoin, J	
dar-11069	Filed atn and order that time for defts Janouneau, Pool, Griffin	-+
	Firer Thomas F. William T. Piper & William T/Piper Jr. is.	
	to answer to the complaint is extended to and including	
	4.9.67 Cannella ,I.	
	otherwise move, including motions addressed to jurisdiction	
	over its person shall be extended to andincluding 4.21.69 Cannella,	
13-69	Filed AMENDED complaint.	
r.19-69	Filed stipulation and order diourning deposition upon oral examination of Lillian Stull to 4/15/69; burther stipulated that the time within which deft.	1.5
	Grumman Aircraft Eng. Coro, may appear, etc. including motions, shall be	
	extended to 6/2/69 subject to order of the Court. So ordered. Bonkel, J.	-
r.25.60	Filed stip and order that Deft Chris Graft I'd Inc time to ans	
2.40	to the amended complaint is extended to 4.1.69 Bonsel	THE P
.3-69	Filed ANSWER of Chris-Craft Mustries, Inc. to Amended Complaint. Filed SECOND AMENDED COMPLAINT.	P.A.
-10-6	Filed gummers and return as follows:	-
	Non-un J. Groun by Marin Green on 3.21.69 in the SD of Fla.	-
	inguin J. Groene by unuble to launte in the Middle Dist of Pa.	-27
	Walter C. Manchest, Charles W. Pool Howard Piper Thomas S. Piper	
	Willie T. Mior and Charles W. Pool for Piper Aircraft Comp	14
	and R.V. Griffin on 2.18.69 in the Middle Disf of Pa.	-
1 = 11-60	Willie T. Piper personally on 2.24.69 in the Middle Dist of Pa. Filed Notice of Motion re: Dismiss certain counts. Ret. 1/22/69, with Memorandum	-
1.1120)	in support thereof.	1
12.11-69	Filed lettice of motion re: Dismiss Amended Complaint. Rct. 1/22/69.	-
11-60	Filed Emmorandum of dofts. Walter C. Jamouneau, etal in support of metion.	1
11. (2	filed Notice to take Deposition of Grumman Aircraft Engineering Corp.	-
h-12	Filed Pitice to take Deposition of Howard Piper, Thomas F. Piper, William T. Piper, and William T. Piper.	anic:
15-69	Filed Notice to take Deposition of Piper Aircraft Carp.	
:.15-69	Filed Notice to take Deposition of Chris-Craft Industria: . Inc. Filed tipulation and order adjourning deposition as indicated. So ordered lyler,	-
18-69	Filled: tipulation and order adjourning deposition of indicated. So ordered. Yer,	·
1 38-69	Milod stip that motion on bohalf of individual dofts is adjis to	-
11-69	rijea wice of lution re: Protective Order, Ret. 5/27/69.	
7 11 69	Filed Lamorandum in support of pltf's motion.	-
: 23-10	Files END-END. on motion papers filed 5/1h/67. Motion withdrawn. So ordered.	
1 1.23.69	10 10 0.10 and order that deposition of Lillian Stull to saild to	
1 1.27.69	hat depositions of Professional and or and the profession of the p	
1 , 2.60	File atip and ord r thatine for der't kexam x(" un nen) to mov	-

DOCKET ENTRIES (STULL V. GREENE)

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	LILLIAN S TUL L	VS. NORM	N J. GREEN I	T AL'Y	HIDOR	1	1
DATE		4	PROCEEDINGS	-	St. Hallan	ARIEN	
	IN THE ACTION 1	S EXTENDED					-
un/5/69	LITTO LITTLE UC	tice of mot	ion ret. o.l	7.69.101	en order	to file	1
	an amended sunr	lamental an	mnlaint			-	-
un/9/69	Filed pltffs me Filed Stip the that motion on	morandum of	law in supp	ort of n	otion	19/60 500	7
	that motion on	behalf of	iper aircraf	t isuad	d to 7/8	7.0709 and	
MISTONO.	y Fared Scrowan	Triff Morriam	now ret. 6/	1//09100	6/24/69	-016	1
m110/0	& Garrison 315	Park Aven	titutine Pau	11 1018	Goldberg	Rickind What	rton
	in place ans bb	ead of Cr	ath Swaine &	Me	o ordered	Clerk.	7
m/24/6	9 Filed stip and	order the	defts may h	ave inti	1 7/17/6	to answer	4.5
un/24/6	Field memorand	complaints	Lasker. j	mat 1	1.760'4-4	70	1
	Filed stip and Filed stip and Filed stip and to the aranded Consented to Or Filed stip and	der submit	ed ans signe	d La	J. J.	d'morron	-
un/26/6	9 Filed stip and	order h	depostion	f Comme	n is sal	8/8 69	LAN
11/3/69	issued addt sum	manded at	supplemental	O CONTRACTOR	ntique : 1	-	1 0
w1/8/69	Plied Memo endo	preed on met	ion #53 ret	7/8/60	ordered me	tion is	1
	Withdrawn wivan	J.	· .	. with	.7		-
11/0/09	Filed Memo end	orsed on	10n.#54 ret	-7-9	Ordered z	tion is	17.
ul 18-69	Filed Stippletion	and order bet	ending time of	dendan	t.ls to one	uni desente de la	
ul 18-69	- BUDDIEMANTAL C	omplaint to	28/69. So orde	red Bins	ما الما الما	The same of the same	75
10-09	complaint to 8	/23/69. So	ending deft, i	angoneun	ta Corp. 's	to answer	-17
w 18-69	Filed Stipulation	and order	ending deft. (heis-Coof	+ Indust -4h	s.Inc. time	
ul 18-69		ed and sup	mental complain	at to 1/6/	69. So ord	Bonsel, J	
	to answer comp	laint to 8/20/	69. So ordered	Bons al	craft Eng.	p.'s time,	+ 3
28-69	Filed stipulation	and order	andina anatai-	J-044			-
31-69	COMPLAINT TO	8/23/69. Sa or	dered. Mensfie	ld, 19			
g.11-69	- 1 TOG DOTIGITACTOR	dikt of the L cabe	HUTHIN GETT - IN	infor mint	a Corp. 's	ine to answer	-
··.13-69	complaint to 9	/9/67. 20 orde	ered. MacMahon,	J.		4	. 7
. K.19-69		ertain defands	ant: to Amendo	d and the	lamental ! a	mốl si ni	CF
ug/20/6	9 Filed stip and the compl	d order tha	t time for	deft Gr	umman to a	newer to	100
z.27-69	Filed ANSWER of	aint is bx	tended to	9/10	0/69 Wyatt	.J.	
19/69	Filed ANSWER of	Deft. Barge	or Punta	16.00			PRAN
p/2/69	Filed stip and	order that	time for de	fts Fipe	r Airoras	ti-Norman	The Sale
÷	J.Green Jamoun	eau Pool Gr	iffin HOward	Piner .	Thomas .P4	per	
	nittes intermo	ttaning 11	avtand ad at	4- 0/75	160	m. 1.	
p/16/6	.Filed Stip ar	adorder that	time for de	oft Chris	Craft to	anawar	45
•	10/1/69 Fr	nged and bu	pplemental c	omplaint	as exter	ded to 10//6	9.44
ep/16/6	9 Filed Defts G	reen, Jamotha	au Pool Grif	Cin Pine	r .Thoma	- Piper	-
	ans willis	an Piper mas	wers to plts	ffs inter	rogatori s		- 7
20 pt. 20-	9. Filed stipulati	on and ordere	xtending deft.	Cheds -Cr	oft Industr	tan Inc. te etm	-1
10.da						ordered . Bryan,	
!	complaint to	11/3/69; £int	her-agreed the	t dift.	Cumment	ne to answer of	
!	ooject to in	cerrops. is ex	tended to 11/3	169 80 0	rdered. Bry	an. J.	

DOCKET ENTRIES (STULL Y. GREENE)

LIILIAN		. 7
D. C. 110 Per. C	Ivil Docket Continuation	
DATE	PROCEFDINGS	
2 2 60	Filled Assumed date Pidem Manualt Count to Betarrogetories	
Je 30-69	Filed Answer of deft. Pier Aircraft Corp. to Interrogatories. Filed atipulation and order extending deft. Graft Industries, Inc. 'a time to answer amended complaint to 12/3/69. So ordered. Winfald, J.	
New/5/69	THE TOOK COMMENT ANSWERS to Interpossioning of Pitts	
ov/5/69	Miled Deft Grumman notice of motion ret. 11/18/69 for an order.	
	granting Summsary Andgment.	
Nov/5/69_	Filed Deft Grummens tatement under Rule 9(g) Piled Deft Grummens memorandum of law in support of motion.	
	Eiled stipulation adjourning motion now set. 11/18/69 to 12/23/69.	
Nov.17-69_	Filed stipulation and order extending deft. Chris-Craft Ind. Inc.'s time to	•
	enger amended complaint to 1/1/10. So owdered. Frankel, J.	-4
Dec-17-69	Filed Pre-Trial Memorandum.	
Dec 17-69	Filed Defendant's Pre-Trial Memorandum.	
naa 20 60	Filed Order to Show Cause re: vacate notice of deposition. Ret. 12/31/69. Filed Deft, Grumman's Medorandum of Law in support of its motion to vacate no	ti
Dec/31/6	Filed Pitffs noticesto take deposition of Deft. Grumman Ainraft.	
Dec/31/6	Filed Fitfs notice to take deposition of Deft. Grumman Aisraft.	Rej
Dec/31/60	Filed stip and order that the deposition of Dert Bangor	-
	18 da celided to 2/10/10 that	-
Jan/9/70_	Filed affidavit in opposition to motions by gramman by Lillian	-
Jan/9/70_	STull pitff.	-
Jan/9/70_	Filed Pitifs memorandum in opposition to Deft Grummans	
	motton for simmany fudoment.	-
Jan/6/70	Filed stip that amother by order to show cause ret 12/11/69	
1 2 / 70	Filed stip an order that time for deft Chirts Craft to answer of	7
13/70	the amended complaint as extended to 2/10/70 Bonsal d.mn	
Jan15-70	the amended complaint as extended to 2/10/70 Bonsal J.mn Filed stip. & order Giourning motion of deft. (Grumman Aircraft)	AL.
	dibecting Corp. I to vacate Ditii a notice of deposition As	14.2
	1-15-70 to 1-22-70 & staying said notice pending determinate of said motion. Bonsal, J.	-
Jun 22-70	Filed stipulation and order extending deft. Ormanan Aircraft Eng. Corp. a tig	-
	to answer amonded and supplemental complaint to 2/21/14 Be ordered.	
Jan/22/	To Filed stip and order than pltffs notice to take deposition of	4
G:	mman Aircraft Engineering Corp is withdrawn and hat motion	
To: 123/2	to yacate pltffs notice is withdrawn. Bonsal J. Filed stip and order that motion of deft Grumman for summary	
1111/22/11	judgmont is withdrawn Bonsal J.	
440.23-70	Filed MEMU, END. on Show Cause filed 12/30/69 Motion withdrawn by stipulation	h
	So order 1. Bonsal, Jamailed notice).	- :
Ab-10-70	Filed stipulation and other extending Chris-Cilett Industries, Inc. 's time to	
Feb.13-70	Filed Notice of Interrogitories.	
Feb. 10,70	Fixed Stip and order thankeposition of deft Bangor Punta Corp. be extended	-
Mar 1-70	Filed About R of Grunnan Mircraft Eng. Corp. to Amended and Supplemental Com	
14-14-	plaint.	
Mar 6-70.	Filed Notice of Motion was Summary Judgment etc. Not. 3/10/70.	-
16.6-10	Filed Melondant Cruman M. Memorandum of Law in support of motion for dismission	4
Mar.6 .70	Filed Deft's Grunnan sistatement under Rule (g)	
Mcr. 10-70		

DOCKET ENTRIES (STULL YS GREENE)

r.11-70	PROGRAMES
	TODO TOTAL THE TOTAL TOT
	"Led tige (Lotten ret Strike Answer, Not. 3/19/70.
r.11-;	Filed Lice of Beneitton.
· k0-71	Filed Plaintiff's Il or and in apposition to dort. Green man' is otion to dis-
	The state of the s
20-70	Filed Notice of Despittion.
	Filed (in court) stipulation and order wishdraving plaintiff's motion dated.
26-70	Filed MENO. END. on motion papers filed 3/11/70. Motion withdrawn by attack
F-2.70	College Brand.
x 21-7	Piled deft's (Rangor Punts Corp) affidavit & notice of motion-
	01:00138 AN LO 1 " " *AF A-7R-70
r 21-	Filed deft's attachent pursuant to rule 9(g).
r. 27- /	Filed deft's materandum in support of his motion ret. 4-28-70 a. Filed stip to adj. deft's motion ret. 4-28-70 to 5-19-70. Filed pltff's affidavit & show cause order-strike answer,
r. 29-) File pltff's affidavit & show cause order-strike answer.
r. 29-	Filed pitff's memorandum of law is account of the
r. 29-7	Filed pltff's medorandum of law in support of his show cause or Filed affidavit of William L.D. Barrett in opposition to pltff
30-70	Filed affidavit pursuent to rule 9(f) of R.J. Stufl; (Piled in
. 30-71	motion. (Filed in court.)
. 1-70	Filed memo-endorded on pltff's motion filed 4-29-70 to seed to
	answer, Settle order on notice in accordance with the comme
5-70	rulings following argument. Tenney, J. Filed pitff's supplemental memorandum on deft's motion to dississ
1.3-101	1100 dere a Crumbon's reply memorandom in aumoust of his most
	Filed pltff's supplemental affidavit(Filed in courton 3-18-70)
5-70	Filed opinion #36755: Deft Grumman Aircraft motion for supervision
	ludgment is granted, and it is expressly directed that the
	clerk enter judgment in favor of deft. Grumman, So ordered.
v 5-70	Filed Judgment that deft. Grunman Aircraft Engineering Corp. had
3_ /- //	judgment against pltff, dismissing the complaint. Judgment
70	ent-Clerk.
y. 11-7	Filed notice of settlement & order that pltff's motion is greate
	application of deft, Bangor Punta Corp. to dismiss pltff's copy notice of motion dated 4-17-70 is stayed until & completion
	said deft's deposition by pitff. Deft. Rangor Punta Core
	David W. Wallace, its President, submit to deposition by the on 5-20-70 at 10:30 a.m., at Room 601. Tenney, J.
v. 15-70	Filed pltff's afcidevits & notice of motion -amend complaint
	ret. 5-26-70.
y. 15-70	Filed pltff': memerandum in support of his motion ret. 1-26-70.
7. 20-70	Filed memo-endorged on deft's (Bangor Punta) filed 4-21-70.
	projudice. So ordered. Motley, J.
1.21-70	Filed pltff's notice of appeal. Mailed copy to Mudge Rose Cuthril
	Alexander, Webster, Shellield, Flalschmann, Hitchock & Brookfine
	Patterson, Belkmap & Webb, Chadbourne, Parke, Whitesid & Wolff, Paul, Weise, Goldberg, Rifkind, Wharton & Gurriyon.

DOCKET ENTRIES (STULL VS GREENE)

	Page #5
DATE	PROCEEDINGS JUDGE CANTEN
May . 25-70	Filed stip to adj. pltff's motion from 5-26-70 to 6-9-70.
Jun. 5-70	Filed affidavit of P.G. Pennoyer, Jr. in opposition to pltff's motion. Iled deft's memorandum in opposition to pltff's motion.
Jun. 5-70	iled deft's memorandum in opposition to pltff's motion .
- 30 - 70 I	Pilad ofth & order that time of nittl. To like record on appeal to cake
	to 8-19-70 from order of Wyart, J. dated 5-5-70. So ordered. Lasker, J.
March 15-70	to 8-19-70 from order of Wyatt J. dated 5-5-70. So ordered Lasker J.
Aug 12-7	Filed notice of certification of record on appear to USCA.
Feb. 23-71	Filed deft's Grumman's reply memorandum in support of its motion for dismissal of the complaint & for summar judgment.
Pan / 20122	
JUNE 1.370	Filed in Court pltff's reply Memorandum on motion to serve fourth amended and second supplemental complaint, etc. (Entered 4-28-71) Filed pltff's Fourth Amended and Second Supplemental Complaint.
pr.28-71	Filed pitff's Fourth Amended and Second Supplemental Complaint.
pr.28-71	willed Upinion #1/101==Filli & moliton to amend the complaint with
	supplemental summonses is granted. So ordered. Lasker, J. M/N
lay 20-71	Filed true copy of U.S.C.A. order that the order and judgment of Dist. Court be and they hereby are affirmed with costs to be taxed against
	the appellant. Judgment Entered M/N
Jun 4-73 F	Ted Panket to Produce
Jun 4-73 F	lled Notice of Deposition of Howard Piper, I homas F. Piper and William T. Piper.
Jun 12.73	Filed Ind. Defts Notice of Motion before Judge Carter, Reom 1306, 6/29/73, 10:00 A.M.
-	re: montactive order staving denositions of Defts Howard Piner Thomas E. Piner
	and William T. Piper. Jr. etc. as indicated Memorandum in support of Protective Orde
Jun 22.73	Filed Mitffle Cross-Motion for Consolidation and to Compel Discovery returnable
	before Judge Carter, 6/29/73, 10:00 , Room 1306 directing Action No. 2 be consolidated
	with Action No. 1 and tried before one Judge.etc.as indicated.
	Memorandum in Opposition to Defts' icti on for Stay and in support of Pitff's
	Motion for consolidation and to compel discovery.
Na 22-73	Filed Spin and Order that the time for deft Bangor Punta Corp to answer
	the complaint (fourth amended and second supplemental) is entend-
Jun 2-73	
2	W. Pool and R. K. Criffin to the amended and supplementa:
,	Complete C
Jul 12-7	B Filed ANSWER of Piper Aircraft Corp. to fourth amended & second Supp.pp
	complaint.
Jun 29-73	riled pltf. reply affdyt. is made on cross-motions. (Also in 72 Civ 2
Oct-5-73	LITER WINDLING OF CELLER LAND
Jun-27-73	Filed affect, of deft. Piper Aircrott Corp. in support of deft's motion for a protective order and pltff's motion for consolidation.
Oct-4-73	Filed memo endorsed on defendants motion filed 6-12-73: For reasons indicated herein motion for a protective order is denied. Ptff's motion for consolidation is premature and is, therefore denied. So ordered Carter (m/n)
	is premature and is, therefore denied. So ordered Carter (m/n)
Tom 79 75	Mind week a Cidut of defendants in support of metion for a protective order
Jup -27-73	and in opposition to pltff's motion for consolidation.
Jun 27-73	
Jun-28-7	
Jun-28-7	
Oct-4-73	Filed defendants' menorandum in apposition support of a protective order.
Dec-28-73	
	plaintiffs motion to consollidate 69 Civ 1140 with 72 Civ 2055 is granted. So.
	ordered, 4- Carter, J. (for all purposes) - m/n

DOCKET ENTRIES (STULL VS GREENE)

Stull va.	Pool, etal. page 6
DAS.3	PROCE DIFFE
prior to	consolidation filed under 72 Civ 2070: on 12-5-72 plants nation to maintain command of the order of the control of the second of the control
	Hilled memoreadum of dofts, Charles W. Pool, Walter C. Javounceu, P.K. Griffin, Houard Piper William T. Piper Ir., William T. Piper, Gr., an Execution and motion for class action decreased - in on suition to plaintiffs
Jan-11-71	Filed echibits and affdyt, of Paul G. Pennoyer, Jr. in apposition to pltff's motion for class action.
m-18-74	Filed affdyt, of Roger L. Waldman (for deft. Pangor Punta) in opposition to plaintiff's motion for class-action.
Jan 22 71 Feb 7.74 Feb 7.74	motion for class-action. Mailed notice of respignant Filed Pltffs. motion for summary judgment and sanctions, ret.2/8/74. Filed Pltffs Memorandum in support of retion for summary for retions.
eb. 4-74 eb.13-74	other relief and in reply on class action application. Filed deft's (Pirer Aircraft) notice of change of address. Filed deft's (Individual Defts) notice of change of address.
15/74	1. Lootrial belorg Courty
	RAYMOND F. BURGHARDT Clerk
	Deputy Clerk



DOCKET ENTRIES (STULL V. POOL).

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There !	PROCEEDINGS	- 1
4.1		
MT12-72	PILED COMPLAINT. ISSUED SUMMONS.	77
un 19.7	2 Filed Dfts. Piper Aircraft Corp. & Bangor Punta Corp. Notice	-
	appearance.	181
un 28.7	Filed Stin & Order ther all proceedings in this notice t	
	until decisions of USCA in the actions indicated ato Funt.	20
	dits time to enswer is extended until 20 days after decisions So Ordered Bricant J	
JUN29-72	FILED SUMMONS AND Marshalls Meturn served;	
	Charles W. Pool 6-19-72	7
	WALTER C. JAMOUNITAU WIIIII	
	R.K. GRIFFIN 6-19-72 """"	
	WILLIAM T. PIPER JR. 6-19-72	
20 3	MIXEDXUNEXECUTED: WXXX NORMAN J. GREENE, HOWARD PIPER, THOMAS F. PIPER.	
un 29-7	3 Filed plffts. reply affdyt. in re cross-motions. (Filed in 69 Ctv 4 Filed affdyt. and notice of motion for an order maintaining case as a class	40RL
€G- 5-13	action - ret. Dec-14-73 at 10 All in Room 1305 (pltff's motion)	-
ec- 5-73	Filed memorandum by plaintiff in support of motion for class action.	
Dec-17-73	Filed stip, and order that rltff's motion filed on 12-5-73 is add, to	
	Jan-11-71 and that defts shall serve papers in opposition by Jan-3-71	
	Carter, J.	
Dec -28-73	Filed memo endorsed on motion by plrintiff filed on 6-21-73 in 69 Civ LLO)	
	that plaintiffs motion to consolidate 69 Civ 110 and 72 CIV 2055 is great	od.
V 3 91	(according to law clerk for all purposes) So ordered - Carter J w/n Filed stip, and order ext, time for pltff's motion for class-action to Jan-	-
Jan- 3-74	25-74; that defts Bangor Punta Corp. and Piper Aircraft Corp. shall	
-	serve their papers in opposition by 1-17-74 Carter, J.	-
	The state of the s	-
	Sep 69 (10 440	
eb 11 74	Mailed notice of reassignment	
r. 4-74	Filed defts' (Charles W. Pool, Walter C. Jamouneau & R. K Griffin) ANSWER	C
PE. 4-74	Filed defts (Howard Piper, Wm. T. Piper & Wm T. Piper & Howard Piper as Executors	-
	of the estate of Wm. T. Piper) ANSWER	
7/-1-11		-
15/74 1-129-74	Filed Plaintiff's Supplemental Affidavit on Specificity of Claims.	-
DE 30.74	Filed Opinion #40656. Given the foregoing, the pltffs. motion wfor a determinant	
30,74	that her action be maintained as a class action is denied. Owen J. (mailed	
	notice)	1
May 9.74	Piled Pitffs. Notice of Motion. Re: Reargument, Class Action, Alternative Kelief.	
	ret. 5/29/74.	1
ey 9.74	Filed Pittis. Memora ndum of Law.	-
May 28,7	Piled Pltff's Notice of Appeal. (Mailed Copies)	-
-	3 JUNA	-
	Deputy Clerk	_
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SYMMONS IN A CIVIL ACTION

D. C. PAPE No. 10 EM. TOWN

United States District Court

FOR THE

SOUTHERN DISTRICT OF NEW YORK

CIVIL ACTION FILE NO ...

72 W. 2055

LILLI IN STULL

Plaintiff

SUMMONS

CHARLES W. POOL, WALTER C. JAMOUNEAU, R. K. GRIFFIN, NORMAN J. GREENE, HOWARD PIPER, THOMAS F. PIPER, WILLIAM T. PIPER, JR., and WILLIAM T. PIPER, JR. THOMAS F. PIPER and HOWARD PIPER, as EXECUTORS OF THE ESTATE OF WILLIAM T. PIPER, DECEASED, PIPER AIRCRAFT CORPORATION, and PROPERTY BANGOR PUNTA CORPORATION, Defendants.

To the above named Defendant s:

You are hereby summoned and required to serve upon

STULL & STULL

plaintiff's attorneys , whose address is

6 East 45th Street New York, New York, 10017

an answer to the complaint which is headwith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

gg & Marsh

Deputy Clerk

Date: May 10, 1972

[Seal of Court]

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

LILLIAN STULL,

Plaintiff,

CHARLES W. POOL, WALTER C. JAMOUNEAU, R. K. GRIFFIN, NORMAN J. GREENE, HOWARD PIPER, THOMAS F. PIPER, WILLIAM T. PIPER, JR., and WILLIAM T. PIPER, JR., THOMAS F. PIPER and HOWARD PIPER, AS EXECUTORS OF THE HOWARD PIPER, as EXECUTORS OF THE
ESTATE OF WILLIAM T. PIPER, DECEASED,
PIPER AIRCRAFT CORPORATION, and BANGOR
PUNTA CORPORATION

Defendants.

COMPLAINT

CLASS ACTION

PLAINTIFF DEMANDS A JURY TRIAL

Plaintiff, complaining of the defendants, by Stull & Stull, her attorneys, alleges upon information and belief, except as to paragraphs "1" and "2" which are alleged upon knowledge, the following:

- 1. The jurisdiction of this Court is founded upon Section 22 of the Securities Act of 1933 (15 USC 77v) and Section 27 of the Securities Exchange Act of 1934 (15 USC 78aa), The acts and practices complained of occurred in whole or in part in the Southern District of New York.
- 2. This action is not a collusive one to confer upon a Court of the United States jurisdiction of an action of which it would not otherwise have jurisdiction.

3. Pursuant to Rule 11A of the Civil Rules of this Court, plaintiff alleges:

CLASS ALLEGATIONS:

- (1) This action is properly maintainable as a class action within Rules 23(b), subidivision (1) (A) (B), and (3), of the Federal Rules of Civil Procedure.
- (2) (1) The number of members of the class is not known, but it is believed that the number is sufficient to comply with the requirements of this Rule, and to exceed 300 members.
- described as those shareholders of Piper Aircraft Corporation
 ("Piper Aircraft"), who like plaintiff and other Piper Aircraft
 shareholders similarly situated owned or held Piper Aircraft
 shares on or about and prior to January 23, 1969 and (a) were
 induced by defendants' proxy materials, press releases, and
 other writings, not to accept, and dissuaded and prevented by
 the defendants or their misconduct from accepting tender and
 exchange offers made by Chris-Craft Industries, Inc. ("ChrisCraft"), one made on or about January 23, 1969 and expiring
 on or about February 3, 1969, being a tender offer of \$65
 in cash for each Piper Aircraft share tendered; and another
 made on or about May 19, 1969 and expiring on or about August
 4, 1969, being an exchange offer of Chris-Craft securities plus
 \$10 in cash, as amended, for each Piper Aircraft share tendered;

and (b) still hold such Piper Aircraft shares, as does the plaintiff, having been deprived of such tender and exchange offers of Chris-Craft, as well as a fair and adequate market for the sale of such shares as a result of the misconduct complained of, or who, since January 23, 1969, have sold their Piper Aircraft shares at a price, or have received a value therefor, of less than either such tender or such exchange offers.

(iii) Plaintiff has no interests adverse to the class; she has involuntarily held and cannot fairly dispose of her shares since and because of the acts and practices complained of; she is not associated in any way, shape or form with any of the defendants; her attorneys are experienced in this type of litigation and will diligently prosecute this action on behalf of the plaintiff and the class she represents; and plaintiff's attorneys have no interests adverse to the claims of Piper Aircraft shareholders.

common to the class are (a) whether the defendants in their efforts to block the Chris-Craft tender and exchange offers and to induce the plaintiff and other shareholders of Piper Aircraft similarly situated not to accept the same or to dissuade and prevent such Piper Aircraft shareholders from doing so, made false, deceptive or misleading statements and material omissions to such Piper Aircraft shareholders in proxy materials and since, alleging that said offers were inadequate, and engaged in other illegal acts and practices and breached their fiduciary duties to Piper Aircraft and profit;

- (b) whether such acts and practices constitute violations of the Securities Act and Exchange Act, aforementioned, and the Rules and Regulations of the Securities and Exchange Commission ("SEC") applicable thereto; and (c) whether plaintiff and other shareholders of Piper Aircraft similarly situated were damaged thereby.
- (v) Among other averments set forth in this complaint, it is claimed that the defendants made false or misleading statements and material omissions to Piper Aircraft shareholders, alleging the inadequacy of Chris-Craft's tender and exchange offers without just reason and while omitting to state their true reasons therefor; and they engaged in other wrongful and illegal acts and breached their fiduciary duties, pending the annual meeting of Piper Aircraft, scheduled for February 4, 1969, and since,
- (i) to induce such shareholders not to accept and dissuade and prevent them from accepting Chris-Craft's tender and exchange offers, and to vote management proxies at said annual meeting, and since;
- (ii) to induce such shareholders to instead exchange their Piper Aircraft shares for a "package" of securities of the defendant Bangor Punta Corporation ("Bangor Punta"), before they were registered;
- (iii) in acquiring approximately

 120,000 Piper Aircraft shares through private sale after a

 public offer to exchange Piper Aircraft shares for the Bangor

 Punta "package" and before such public offer expired;

(iv) in failing to disclose material defects, obstacles and liabilities involved in Piper Aircraft products, as well as issuing misleading reports with respect thereto;

(v) in overstating Bangor Punta's assets and omitting to disclose certain of its liabilities; and

(vi) in omitting to disclose private, self-interest agreements between or among the individual defendants and Bangor Punta, for the self-profit of the individual defendants, among other such agreements made by the defendants or some of them.

In further compliance with subdivision (b) (1) of Rule 23, FRCP, plaintiff additionally alleges:

- (A) The prosecution of separate actions by individual members of the class would create a risk of inconsistent or varying adjudications with respect to individual members of the class which would establish incompatible standards of conduct for the parties opposing the class.
- (B) Adjudications with respect to individual members of the class would as a practical matter be dispositive of the interest of the other members not parties to the adjudications or substantially impair or impede their ability to protect their interests.

(3) There is no interest in members of the class in individually controlling the prosecution of separate actions known to the plaintiff. It is desirable to concentrate the litigations of the claims of the class in this forum for the convenience of the parties and to facilitate the prosecution of the action. Plaintiff knows of no difficulties likely to be encountered in the management of a class action. A prior action in this Court (69 Civ. 440) was commenced by the plaintiff on February 3, 1969 and is pending as a derivative and class action containing charges, which have been expanded by subsequent events, but do not fairly include the charges and the theory of liability and damages upon which the instant action is predicated. Also, individual actions by Chris-Craft against Bangor Punta and Piper Aircraft, and by Bangor Punta against Chris-Craft, brought subsequent to plaintiff's said prior action, have been dismissed by this Court and appeals from such dismissals are pending.

CAUSE OF ACTION:

- 4. Plaintiff is a stockholder of Piper Aircraft, owning 150 shares of its common (voting) shares, which she purchased on the New York Stock Exchange ("NYSE"), a National Securities Exchange, in the City and County of New York.
- Plaintiff holds such shares involuntarily ever since and as a result of the acts and practices complained of.
- 6. Piper Aircraft is and at the time of the acts and practices complained of was a Pennsylvania corporation, doing

business in the State of New York and its stock was listed and traded on the NYSE; Piper Aircraft is and for many years has been engaged in the manufacture and sale of light aircraft.

- 7. Defendant Bangor Punta is and was a Delaware corporation with offices in the City and State of New York at the times of the acts and practices complained of.
- 8. The individual defendants are or were at the time complained of directors and officers of Piper Aircraft, except that William T. Piper, who was Chairman of Piper Aircraft's board of directors at the time of the acts and practices complained of, died on or about January 30, 1970 and William T. Piper, Jr., Thomas F. Piper and Howard Piper are the Executors of his estate.
- 9. Defendants and William T. Piper, deceased, committed the misconducts complained of in violation of Sections 5 and 11 of the Securities Act (15 USC 77e and k) and Rule 135 of the Rules and Regulations of the SEC relating thereto and Sections 10(b) and 14(a) and (e) of the Exchange Act (15 USC. 78j (b) and n (a) and (e)) and Rules 10b-5 and 10b-6, and Regulations 14a-1 et seq. of the SEC (17 CFR 240.10b-6, 14a-1 et seq.), among others, or are chargeable with joining in a conspiracy to commit such misconducts and to profit thereby. Plaintiff is a citizen and resident of the State of Connecticut; and defendants are citizens of States other than Connecticut.
- 10. Prior to January, 1969, Piper Aircraft was controlled by William T. Piper, now deceased, and his family (the "Piper family").

- 11. Prior to January, 1969, William T. Piper and the Piper family retained control over and dominated the management of Piper Aircraft by cumulative voting and by the confidence of its stockholders; and its annual meeting was scheduled for February 4, 1969 and management proxies had been sent to Piper Aircraft shareholders therefor.
- 12. In or around January, 1969, Chris-Craft acquired some 200,500 shares of Piper Aircraft, which was in excess of 10% of Piper Aircraft's common shares.
- Board of Directors at the annual meeting scheduled to be held on Pebruary 4, 1969, and thereafter a merger with Piper Aircraft, Chris-Craft released the news of its said acquisition on or about January 23, 1969, and it made a tender offer for 300,000 or more additional shares of Piper Aircraft at a price of \$65 per share, which expired on or about February 3, 1969.
- 14. On or about and prior to said tender offer,
 Piper Aircraft shares were trading on the NYSE at market prices
 of around \$52 per share.
- 15. Thereupon, the defendants, except Bangor Punta, fearing they would lose control of the management of Piper Aircraft and its Board of Directors at said annual meeting and thereafter, acting together and in concert, wrongfully sought to induce the plaintiff and other shareholders of Piper Aircraft

similarly situated not to accept Chris-Craft's tender offer, and they embarked upon a plan, scheme and conspiracy to dissuade and prevent the plaintiff and other Piper Aircraft shareholders from accepting said tender offer, or otherwise disposing of their shares to Chris-Craft and they did so by use of the means or instrumentality of interstate commerce, or the mails, or the facilities of the NYSE, making untrue and unclear statements of material facts and omitting to state material facts necessary in order to make the statements they made, in light of the circumstances under which they were made, not misleading, and they engaged in fraudulent, deceptive or manipulative acts or practices in connection with such tender offer and in soliciting opposition thereto, in proxy materials for said annual meeting and in written materials publicly disseminated since that time.

- 16. On or about and subsequent to January 26, 1969, by telegram and letters initiated by the defendants, except Bangor Punta, defendants
- (a) wrongfully urged Piper Aircraft shareholders not to tender their shares to Chris-Craft, and they stated.
 without just reason, that Chris-Craft's tender offer was
 "inadequate" and "not in the best interests" of Piper Aircraft
 shareholders, and that "NOT ONE OF YOUR BOARD OF DIRECTORS OR
 MANAGEMENT WILL TENDER HIS SHARES", which defendants emphasized to
 induce shareholders of Piper Aircraft to follow the alleged lead
 of said "Board of Directors and management":
- (b) omitted to disclose that Piper Aircraft had received advice from its financial adviser, First Boston Corporation, to the effect that \$65 a share was a fair price for Piper Aircraft shares:

- (c) defendants also misleadingly implied that all members of said Board of Directors and management held Piper Aircraft shares, which was untrue; and
- (d) defendants also falsely implied that "Piper stock is worth substantially more than it [Chris-Craft] is offering" and that "Chris-Craft must believe" so, which was misleading, speculative and without basis, and they pmitted to state that Piper Aircraft had serious product problems, hereinafter mentioned, which defendants omitted to disclose in their proxy materials and since.
- attempts and deals with other third parties to frustrate Chris-Craft's tender offer and to delay, dissuade and induce the plaintiff and other Piper Aircraft shareholders not to accept the same and the exchange offers by Chris-Craft, which followed such tender offer, by which Chris-Craft offered the plaintiff and other Piper Aircraft shareholders similarly situated, securities, plus \$10 in cash, having a then value of approximately \$75 per share for their Piper Aircraft shares.
- alculated to dissuade and prevent the plaintiff and other Piper Aircraft shareholders similarly situated from tendering their shares to Chris-Craft or accepting Chris-Craft's exchange offer, and to induce them not to do so, the defendants, including Bangor Punta, wrongfully and unlawfully offered to exchange the shares of Piper Aircraft shareholders for a "package" of securities of Bangor Punta "to be valued in the judgment of the First Boston Corporation at not less than \$80 per Piper [Aircraft] share", but such value was untrue, as the defendants knew or should have known, for reasons hereinafter set forth which the defendants failed to disclose.

- 19. The said Bangor Punta was illegally made and disseminated to the plaintiff and other Piper Aircraft share-holders similarly situated, in that no registration statement covering that exchange offer, the so-called "package" to be exchanged for Piper Aircraft shares, had been filed with the SEC or was in effect as required by law, and said Piper Aircraft shareholders were thereby deceived into selling their shares to Bangor Punta at less than their alleged "package" value and/or induced not to and dissuaded and prevented from selling such shares to Chris-Craft.
- 20. Thereafter, and following an injunction action instituted by the SEC against Piper Aircraft and Bangor Punta, for Securities Act violation, a registration of such "package" of securities offered by Bangor Punta to be exchanged for Piper Aircraft shares, allegedly worth \$80 per Piper Aircraft share. was filed by the defendants, but such registration wrongfully furthered the plan, scheme and conspiracy of the defendants to dissuade and prevent Piper Aircraft shareholders from and to induce them not to accept the Chris-Craft tender and exchange offers, in that, Bangor Punta's assets and financials omitted to reflect the terms of outstanding institutional loans and included its holdings in the Bangor and Aroostook Railroad ("BAR") at a figure which it carried on its books in the amount of \$18.4 million. although it had pending and deferred a transaction for the sale of its holdings in BAR for about \$5 million, which it consummated shortly thereafter, as a result of which all profits which Bangor Punta had publicly reported and upon which the

evaluation of such "package" was materially based were in fact wiped out and therefore were in fact non-existent, all of which was not disclosed to Piper Aircraft shareholders during the period when Bangor Punta's exchange offer as well as Chris-Craft's offers were yet in effect and had not yet expired and Piper Aircraft shareholders were deceived thereby.

- 21. In addition, and following the aforesaid registration by Bangor Punta, the defendants, acting together and in concert, wrongfully and unlawfully negotiated and acquired for Bangor-Punta certain blocks of Piper Aircraft shares, through private sale, during the pendency of Bangor Punta's exchange offer for Piper Aircraft shares and before the same had expired, all purposed to block Chris-Craft's offers to Piper Aircraft shareholders, which were still open and had not yet expired.
- 22. In addition, in furtherance of their scheme and conspiracy, defendants wrongfully issued optimistic and misleading reports concerning Piper Aircraft products and failed to disclose material defects, production obstacles and liabilities involved in such products, in that
- (a) with respect to the development of its "Pocono" plane, the same was and continued to be without a suitable motor to power the same, and said plane had to be and was eventually abandoned and the plant constructed by Piper Aircraft in Lakeland, Florida, to manufacture and assemble said "Pocono" plane was rendered idle and useless, as the defendants well knew or should have known; and

(b) with respect to its "Twin Comanche" plane, that plane as developed and sold caused numerous and continual crashes, loss of life and liabilities to Piper Aircraft, and that product had to be and was eventually abandoned as defendants well knew or should have known.

Plaintiff and Piper Aircraft shareholders similarly situated were thereby deceived and induced not to and dissuaded and prevented from selling their shares to Chris-Craft.

23. In addition, and in furtherance of their scheme and conspiracy to block Chris-Craft's offers to the plaintiff and other Piper Aircraft shareholders similarly situated, Bangor Punta privately promised and agreed with the remaining defendants and guaranteed to said defendants, constituting Piper Aircraft's management (and certain of their relatives) that they would receive a substantial stock or cash bonus from the previous sale of their stock to Bangor Punta, if Bangor Punta were to be successful in acquiring control of Piper Aircraft; and defendants accordingly also had a conflict of interests in that they were to personally profit by the defeat of the Chris-Craft tender and exchange offers, and defendants omitted to disclose to the plaintiff and other Piper Aircraft shareholders any of the foregoing, and that in truth and fact they were acting in their self-interest for undisclosed profit and not in the interests of or equal profit to Piper Aircraft shareholders in their efforts to induce such shareholders not to accept and to dissuade and prevent them from accepting Chris-Craft's offers and Piper Aircraft shareholders were deceived thereby.

- 24. As a result of the misconduct of the defendants, trading in Piper Aircraft shares on the NYSE was suspended by the SEC and as a direct or indirect result thereof Piper Aircraft was eventually delisted from the NYSE, depriving plaintiff and other Piper Aircraft shareholders of such market for their shares, all to the loss and damage of the plaintiff and other Piper Aircraft shareholders similarly situated.
- 25. Plaintiff and other members of the class she represents, had no knowledge of the wrongful and illegal acts of the defendants hereinabove mentioned, and could not have discovered them by the exercise of reasonable diligence at or prior to the expiration of Chris-Craft's tender and exchange offers aforementioned.
- 26. Bangor Punta well knew or should have known of the misconducts of the defendants which occurred prior to May, 1969, when it joined in the scheme and plan complained of and when its participation in the frauds charged commenced; and as a result thereof it became a controlling entity over or affiliate of Piper Aircraft and it participated in or aided and abetted the wrongful and illegal acts complained of and is chargeable therewith.
- 27. Plaintiff and the other members of the class she represents relied upon the proxy statements, recommendations, proposals, reports and writings of the defendants, and upon

their material omissions, and did not accept Chris-Craft's tender and exchange offers and involuntarily hold their Piper Aircraft shares, or have since sold their Piper Aircraft shares at less than \$65: per share.

28. Plaintiff and the other members of the class she represents were caused to reject the Chris-Craft offers by reason of the acts and practices complained of, and as a result thereof were damaged in the amount of at least \$25,000,000.

WHEREFORE, plaintiff demands judgment against the defendants in the amount of at least \$25,000,000, reasonable attorneys' and accountants' fees, together with interest and costs.

> STULL & STULL Attorneys for Plaintiff

of the Firm

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A Member of the Office & P.O. Address 6 East 45th Street

New York, New York, 10017 (212) 687-7230

ANSWER OF DEFENDANTS, HOWARD PIPER, WILLIAM T. PIPER, JR., AND WILLIAM T. PIPER, JR. AND HOWARD PIPER AS EXECUTORS OF THE ESTATE OF WILLIAM T. PIPER.

UNITED STATES DISTRICT COURT SCUTTERN DISTRICT OF NEW YORK

LILIAN STULL.

Plaintiff,

ANSWER

- against -

72 CLV. 2055 (RO)

CHARLES W. POOL, ot al.

Defendants.

Defendants, Howard Piper, William T. Piper, Jr., and William T. Piper, Jr. and Howard Piper as Excepters of the Estate of William T. Piper, by their attorneys, Chadbourne, Parke, Whiteside & Wolff, answer the complaint herein as follows:

- Deny each and every allegation contained in paragraph 1 of the complaint except admit that plaintiff purports to bring this action under the statutes and sections set forth therein.
- Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs 2 and 4 of the complaint.
- 3. Dany each and every allegation contained in paragraph 3 and the subdivisions thereof of the complaint insofar as it relates to said defendants except admit plaintiff purports to bring this action under the Rules set forth therein.
- Demy each and every allegation contained in paragraphs 5, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27 and 28 of the complaint insofar as it portains to said defendants.

ANSWER OF DEFENDANTS, HOWARD PIPER, WILLIAM T. PIPER, JR., AND WILLIAM T. PIPER, JR. AND HOWARD PIPER AS EXECUTORS OF THE ESTATE OF WILLIAM T. PIPER

- 5. Deny each and every allegation contained in paragraph 6 of the ecomplaint except admit that Piper Aircraft Corporation is and was a Pennsylvania Corporation, doing business in New York, that Piper's common stock was listed and traded on the New York Stock Exchange and that Piper is and for many years has been engaged in, among other things, the manufacture and sale of light aircraft.
- 6. Deny each and every allegation contained in paragraph 7 of the complaint insofar as it relates to said defendants except admit that Bangor Punta Corporation is a Delaware corporation and that at one time its corporate headquarters were in dew York, New York.
- 7. Deny each and every allegation contained in paragraph 8 of the complaint insofar as it refers to them except admit that certain of the individual defendants at certain times were officers of Piper, that all of the individual defendants at one time were directors of Piper, that William T. Piper, Jr., is presently a director of Piper, that R. K. Griffin and Mormen J. Greene ceased to be directors on March 25, 1969 and Walter C. Jamouneau and Charles W. Pool ceased to be directors on August 12, 1969, that William T. Piper at one time was Chairman of the Board of Directors of Piper, that William T. Piper died on or about January 15, 1970 and that Thomas P. Piper, William T. Piper, Jr. and Howard Piper are the Executors of his Estate.
- 8. Deny each and every allegation contained in the first sentence of paragraph 9 of the complaint. Deny knowledge or information sufficient to form a

ANSWER OF DEFENDANTS, HOWARD PIPER, WILLIAM T. PIPER, JR., AND WILLIAM T. PIPER, JR. AND HOWARD PIPER AS EXECUTORS OF THE ESTATE OF WILLIAM T. PIPER

belief as to the truth of the allegations contained in the second sentence of paragraph 9 of the complaint except admit that they are citizens of states other than Connecticut.

- Deny each and every allegation contained in paragraph 10 of the complaint except admit that William T. Piper is now deceased.
- 10. Deny each and every allegation contained in paragraph 11 of the complaint except admit that proxies were solicited on behalf of management for the annual meeting of Piper Aircraft Corporation scheduled for February 4, 1969.
- Admit the allegations contained in paragraph 12 of the complaint.
- 12. Deny each and every allegation contained in paragraph 13 of the complaint except admit that a tender offer was made by Chris-Craft Industries, Inc. and that news of it was released and refer to the tender offer and release for their contents.
- in paragraph 14 of the complaint except admit that prior to August 11, 1969 shares of Piper Aircraft Corporation traded on the New York Stock Exchange and refer to the records of trading for the prices at which such stock traded.

AS AND FOR A FIRST APPIRMATIVE DEFENSE

14. Plaintiff has failed to state a claim or claims against them upon which relief can be granted. ANSWER OF DEFENDANTS, HOWARD PIPER, WILLIAM T. PIPER, JR., AND WILLIAM T. PIPER, JR. AND HOWARD PIPER AS EXECUTORS OF THE ESTATE OF WILLIAM T. PIPER

AS AND FOR A SECOND APPIRMATIVE DEPENSE

13. Plaintiff does not have standing to assert the allegations contained in the complaint.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

16. This Court lacks jurisdiction over the persons of said individual defendants.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

17. To the extent the complaint complains of alleged misconduct by said individual defendants not in violation of the Securities Exchange Act of 1934, this Court lacks jurisdiction over the subject matter thereof.

AS AND FOR A PIPTE APPIRMATIVE DEFENSE

18. This action is barred by the order of Judge Lasker dated April 28, 1971 of this Court in Stull v. Greene, 69 Civ. 440 in which he permitted plaintiff to serve and file her fourth amended and supplemental complaint and directed her to proceed "on the basis of her complaint as framed."

AS AND FOR A SIXTH APPIRMATIVE DEPENSE

19. This case should be stayed pending plaintiff's prosecution of <u>Stull</u> v. <u>Greene</u>, 69 Civ. 440.

ANSWER OF DEFENDANTS, HOWARD PIPER, WILLIAM T. PIPER, JR., AND WILLIAM T. PIPER, JR. AND HOWARD PIPER AS EXECUTORS OF THE ESTATE OF WILLIAM T. PIPER

AS AND FOR AN AFFIRMATIVE DEFENSE TO THE CLASS ACTION ALLEGATIONS

20. If it is held that plaintiff has alleged a proper class action, plaintiff cannot represent such class because she is not a member thereof and has a conflict of interest.

WHEREFORE, defendants Howard Piper, William T.
Piper, Jr., and Howard Piper and William T. Piper, Jr.,
as Executors of the Estate of William T. Piper demand
judgment dismissing the complaint as against them,
together with costs and disbursements of this action.

Dated: New York, New York February , 1974

CHADBOURNE, PARKE, WHITESIDE & WOLFF

BU PAUL G. PENNOYER JR.

A Number of the Firm Attorneys for Howard Piper, William T. Piper, Jr., and Howard Piper and William T. Piper, Jr., as Executors of the Estate of William T. Piper 30 Rockefeller Plaza New York, New York 541-5800 ANSWER OF DEFENDANTS, CHARLES W. POOL, WALTER C. JAMOUNEAU AND R.K. GRIFFIN.

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK		
	x	
LILLIAN STULL,	•	
Plaintiff,	•	AMENER
- against -	•	72 Civ. 2055 (RO)
CHARLES W. POOL, et al.	•	
Defendants.		

Defendants, Charles W. Peel, Walter C. Jamesmeau and R. K. Griffin, by their attorneys, Chadhourne, Parke, Whiteside & Wolff, answer the complaint herein as follows:

- 1. Deep each and every allegation contained in paregraph 1 of the complaint except admit that plaintiff purports to bring this action under the statutes and sections set forth therein.
- Deep knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs 2 and 4 of the complaint.
- J. Deep each and every allegation contained in paragraph 3 and the subdivisions thereof of the complaint innofar as it relates to said defendants except admit plaintiff purports to bring this action under the Rules set forth therein.
- 4. Decry each and every allogation contained in passagraphs 5, 15, 14, 17, 16, 19, 20, 21, 22, 23, 24, 25, 26, 27 and 28 of the complaint insofar as it pertains to said defendants.

ANSWER OF DEFENDANTS, CHARLES W. POOL, WALTER C. JAMOUNEAU AND R.K. GRIFFIN

- 5. Deny each and every allegation contained in paragraph 6 of the complaint except admit that Piper Aircraft Corporation is and was a Pennsylvania Corporation, deing business in New York, that Piper's common stock was listed and traded on the New York Stock Exchange and that Piper is and for many years has been engaged in, among other things, the manufacture and sale of light aircraft.
- 6. Deny each and every allegation contained in paregraph 7 of the complaint insofar as it relates to said defendants except admit that Bengor Punta Corporation is a Delaware corporation and that at one time its corporate headquarters were in New York, New York,
- 7. Deny each and every allegation contained in paragraph 8 of the complaint insofar as it refers to them except admit that certain of the individual defendants at certain times were officers of Piper, that all of the individual defendants at one time were directors of Piper, that William T. Piper, Jr., is presently a director of Piper, that R. K. Griffin and Norman J. Greene ceased to be directors on March 25, 1969 and Walter C. Jameuneau and Charles W. Pool ceased to be directors on August 12, 1969, that William T. Piper at one time was Chairman of the Beard of Directors of Piper, that William T. Piper died on or about January 15, 1970 and that Thomas F. Piper, William T. Piper, Jr. and Novard Piper are the Emousters of his Emtate.

ANSWER OF DEFENDANTS, CHARLES W. POOL, WALTER C. JAMOUNEAU AND R.K. GRIFFIN

- 3. Demy each and every allegation contained in the first sentence of paragraph 9 of the complaint. Demy knowledge or information sufficient to form a belief as to the truth of the allegations contained in the second sentence of paragraph 9 of the complaint except admit that they are citizens of states other than Connectious.
- 9. Deny each and every allegation contained in paragraph 10 of the complaint except admit that William T. Piper is now deceased.
- 10. Deny each and every allegation contained in paragraph 11 of the complaint except admit that provides were solicited on behalf of management for the annual meeting of Piper Aircraft Corporation scheduled for Pebruary 4, 1969.
- 11. Admit the allegations contained in paragraph
 12 of the complaint.
- 12. Deny each and every allegation contained in paragraph 13 of the complaint except admit that a tender offer was made by Chris-Craft Industries, Inc. and that news of it was released and refer to the tender offer and release for their contents.
- 13. Deny each and every allegation contained in paregraph 14 of the complaint except admit that prior to August 11, 1969 shares of Piper Aircraft Corporation traded on the New York Stock Exchange and refer to the records of trading for the prices at which such stock traded.

6

ANSWER OF DEFENDANTS, CHARLES W. POOL, WALTER C. JAMOUNEAU AND R.K. GRIFFIN

AS AND FOR A PIRST APPIRMATIVE DEPENSE

14. Plaintiff has failed to state a claim or claims against them upon which relief can be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

15. Plaintiff does not have standing to assert the allegations contained in the complaint.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

16. R. K. Griffin was never an officer, was an outside director and ceased to be a member of the Board of Directors after March 25, 1969. Defendants Charles W. Pool and Walter C. Jamouneau ceased to be directors after August 12, 1969.

AS AND FOR A FOURTH APPIRENTIVE DEPENSE

17. This Court lacks jurisdiction over the persons of said individual defendants.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

18. To the extent the complaint complains of alleged misconduct by said individual defendants not in violation of the Securities Exchange Act of 1934, this Court lacks jurisdiction over the subject matter thereof.

ANSWER OF DEFENDANTS; CHARLES W. POOL, WALTER C. JAMOUNEAU AND R.K. GRIFFIN

AS AND FOR A SIXTH APPIRENTIVE DEFENSE

19. Defendant R. R. Griffin is not and never has been an officer of Piper and, since Narch 25, 1969, has not been a director of Piper. Any matters alleged after March 25, 1969 are not pertinent to this defendant. Said defendant is therefore impreparly joined as a party defendant and severance as to him is required.

AS AND FOR A SEVENTH APPIRMATIVE DEPRNSE

Judge Lasker dated April 28, 1971 of this Court in Stull V. Greene, 69 Civ. 440, in which he permitted plaintiff to serve and file her fourth amended and supplemental complaint and directed her to proceed "on the basis of her complaint as framed."

AS AND FOR AN EIGHTH APPIRMATIVE DEPENSE

21. This case should be stayed pending plaintiff's prosecution of Stull v. Greene, 69 Civ. 440.

AS AND FOR AN APPIRICATIVE DEPENSE TO THE CLASS ACTION ALLEGATIONS

32. If it is held that plaintiff has alleged a proper class action, plaintiff cannot represent such class because she is not a member thereof and has a conflict of interest.

Minimpose, defendants Charles W. Pool, Welter
C. Jamesmean and R. K. Griffin demand judgment dismissing
the complaint as equinst them, together with costs and
disburcements of this action.

ANSWER OF DEFENDANTS, CHARLES W. POOL, WALTER C. JAMOUNEAU AND R.K. GRIFFIN

Dated: New York, New York February , 1974

CHADBOURNE, PARKE, WEITESIDE & WOLFF

PAUL G. PENNOYER JR.

A Number of the Firm Attorneys for Charles W. Pool, Walter C. Jamouseau and R. K. Griffin 30 Rockefeller Plana New York, New York 541-5808 RE-NOTICE OF MOTION FOR CLASS ACTION DETERMINATION.
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LILLIAN STULL,

Plaintiff

RE-NOTICE OF MOTION FOR CLASS ACTION DETERMINATION

CHARLES W. POOL, et al.,

72 Civ. 2055 RLC

Defendant.

SIRS:

PLEASE TAKE NOTICE that plaintiff's Notice of Motion for Class Action Determination, dated November 28, 1973, returnable before Judge Charles H. Tenney on December 13, 1973, is re-noticed for the reason that the within action has been reassigned to Judge Robert L. Carter, and up the papers upon which plaintiff's said motion, dated November 28, 1973, is based and the proceedings had herein, plaintiff will move this Court at the United States Courthouse, Foley Square, New York, New York, before Judge Robert L. Carter, in Room 1305, on December 14, 1973, at 10:00 A.M., for an order, pursuant to Rule 11A (c) of the Civil Rules of this Court, and Rule 23 (c) (1) of the Federal Rules of Civil Procedure. determining that this action be maintained as a class action, and upon such determination that the membership of the class be determined to be the stockholders of Piper Aircraft Corporation common shares who were deprived of tender and exchange offers made to them by Chris-Craft Industries. Inc., on or about and between January 23, 1969 and August 4, 1969, or such other

RE-NOTICE OF MOTION FOR CLASS ACTION DETERMINATION class as may be defined by the Court, provide for notice, and for such further relief as to the Court seems just.

Dated: New York, New York December 4, 1973

Yours, etc.

STULL & STULL

A member of the firm
Attorneys for Plaintiff
Office & P. O. Address
6 East 45th Street
New York, New York, 10017
(212) 687-7230

TO: CHADBOURNE, PARKE, WHITESIDE & WOLFF, ESQS.
Attorneys for Individual Defendants
25 Broadway
New York, New York, 10004

WEBSTER, SHEFFIELD, FLEISCHMAN, HITCHCOCK & BROOKFIELD, ESQS. Attorneys for Defendant, Bangor Punta Corporation 1 Rockefeller Plaza New York, New York, 10020

NOTICE OF MOTION FOR CLASS ACTION DETERMINATION.

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

LILLIAN STULL,

Plaintiff,

NOTICE OF MOTION FOR CLASS ACTION DETERMINATION

72 Civ. 2055 C/17

CHARLES W. FOOL, et al.,

Defendants.

SIRS:

PLEASE TAKE NOTICE that upon the annexed affidavit of ROBERT A. STULL, sworn to November 28, 1973, and the pleadings and proceedings had herein, plaintiff will move this Court, at the United States Court House, Foley Square, New York, New York, before Judge Charles H. Tenney, in Room 1904, on December 13, 1973, for an order, pursuant to Rule 11A (c) of the Civil Rules of this Court and Rule 23(c) (1) of the Federal Rules of Civil Procedure, determining that this action be maintained as a class action and upon such determination that the membership of the class be determined to be the stockholders of Piper Aircraft Corporation common shares who were deprived of tender and exchange offers made to them by Chris-Craft Industries, Inc., on or about and between January 23, 1969 and August 4, 1969, or such other class as may be defined by the Court, provide for notice and for such further relief as to the Court seems just.

Dated: New York, New York November 28, 1973

Yours, etc.

STULL & STULL

A Member of the Firm Attorneys for Plaintiff Office & P. O. Address 6 East Apth Street New York, New York, 10017

NOTICE OF MOTION FOR CLASS ACTION DETERMINATION

TO: CHADBOURNE, PARKE, WHITESIDE & WOLFF, ESQS.
Attorneys for Individual Defendants
25 Broadway
New York, New York, 10004

WEBSTER, SHEFFIELD, FLEISCHMAN, HITCHCOCK & BROOKFIELD, ESQS.
Attorneys for Defendant Bangor Punta Corporation
1 Rockefeller Plaza
New York, New York, 10020

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

LILLIAN STULL,

Plaintiff,

AFFIDAVIT

72 Civ. 2055

CHARLES W. POOL, et al.,

Defendants.

STATE OF NEW YORK)
SS.

ROBERT A. STULL, being duly sworn, deposes and says:

of the firm of STULL & STULL, attorneys for the plaintiff. I have knowledge of the facts and circumstances of this action. This affidavit is made in support of plaintiff's application, pursuant to Rule 11A of the Civil Rules of this Court and Rule 23 (c) of the Federal Rules of Civil Procedure, for an order determining that this action be maintained as a class action and determining the membership of the class to be the public stockholders of Piper Aircraft Corporation ("Piper Aircraft") common shares, who were deprived of tender and exchange offers, made to them by Chris-Craft Industries, Inc. ("Chris-Craft"), as a result of the defendants' wrongful acts and material omissions alleged in the complaint.

2. This action was commenced by the filing of the complaint herein on May 10, 1972. It was stayed (Exhibit "A", annexed), and delayed (Exhibit "B", annexed), pending the determination of Chris-Craft Industries, Inc.
v. Bangor Punta Corporation, CCH Fed. Sec. L. Rep. 1 93,816,
p. 93,491, which has been determined in the Court of Appeals,
adversely to the defendants. Certiorari has now been denied
in the United States Supreme Court.

- 3. This action was brought on behalf of the plaintiff and other stockholders of Piper Aircraft similarly situated, who owned or held Piper Aircraft common shares on or about and between January 23, 1969 and August 4, 1969, and
 - (a) were solicited, induced, dissuaded and deprived by defendants' wrongful proxy or registration statements, press releases and other writings disseminated by defendants, participating together in a wrongful scheme, of and from tender and exchange offers made to them by Chris-Craft, one made on or about January 23, 1969, which expired on or about February 3, 1969, being a tender offer of \$65 in cash for each Piper Aircraft share tendered; and others expiring on or about August 4, 1969, being exchange offers of Chris-Craft securities, plus \$10 in cash, having a value of \$60-84, for each share of common stock tendered (See p. 5, infra); and who
 - (b) still hold their Piper Aircraft shares, as does the plaintiff, as a result of the misconducts complained of, or who

have sold their Piper Aircraft shares
to Bangor Punta Corporation ("BPC")
or the other defendants, directly or
indirectly, at a price, or have
received a value therefor, less than
said tender or exchange offers, as a
result of the misconducts complained of,

to their loss and damage.

4. Plaintiff respectfully submits that the above class is supported by the decision of the Court of Appeals in Chris-Craft (supra). Although Chris-Craft's was a private action, plaintiff claims that the facts and statutory misconducts determined therein are identical with those at bar and are res adjudicata or create a collateral estoppel with respect to common facts and statutory misconducts pleaded at bar. Both sides stipulated and agreed to the stays and delay of this suit because of the bearing of Chris-Craft (supra) thereon. As Circuit Judge Timbers said, in Chria-Craft, (at p. 93,503):

"Through unlawful and deceptive practices, they allegedly have denied CCI a fair opportunity to succeed in its tender offers".

And plaintiff respectfully submits that the public stockholders of Piper Aircraft were those to whom such "tender offers" were made, and accordingly, by the same "unlawful and deceptive practices" were deprived of the same "fair opportunity".

5. Plaintiff claims that those public stockholders who sold to BPC or to defendants who sold to BPC, directly or indirectly, are within the class, upon the facts and law in

common with holders, in that both the holders and sellers in the period of Chris-Craft's offers, were deprived of Chris-Craft's offers by the wrongful acts and material omissions complained of. As Circuit Judge Timbers, speaking for the Court of Appeals in Chris-Craft (supra, at p. 93,495), said:

"The Piper family's resistance to the CCI tender offer took several forms. On January 25, the Piper Board adopted a resolution that CCI's offer was not in the best interests of the Piper shareholders and decided that this resolution should be sent to them. Letters were sent out the same day asking Piper shareholders to delay accepting the CCI offer until the Piper management could adequately respond to it. This was followed by a letter dated January 27 over the signature of W. T. Piper, Jr. 4. The letter stated, among other things, that the Piper Board 'has carefully studied this offer and is convinced that it is inadequate and not in the best interests of Piper's shareholders.'

"4 This letter was prepared by D. F. King & Co. It was reviewed by the Piper "family, by its legal counsel and by Mr. Bayard of First Boston."

6. Whichever way and however Chris-Craft moved, until it gave up the fight, the Piper management (the Piper family) was there to meet its offers and to block them, by wrongfully soliciting, inducing, dissuading, preventing and depriving Piper Aircraft's public stockholders of an informed judgment as to their best interests. The damages of the sellers may not be as much as those of the holders, but to none was it disclosed that Chris-Craft's offers were a fair price on the one hand, and on the other hand that BPC's offer was false or

misleading and artificial and part and parcel of an unlawful fight, all of which the Court has now finally determined. Circuit Judge, Timbers, in Chris-Craft, supra, (at p. 93,496), said (with respect to Chris-Craft's final offer):

"First Boston estimated that the package was worth \$70-74 per Piper share. On May 12 and 16, the Board of CCI adopted resolutions approving the exchange offer and increased the value of the package by adding \$10 cash."

7. All public stockholders of Piper Aircraft in this period (1/23/69 to 8/4/69) were induced to reject a fair price offered by Chris-Craft. The defendants well knew that the tender offer made by Chris-Craft was also a fair price because they were so advised by their own financial adviser, the First Boston Corporation (Chris-Craft, supra, at p. 93,506). The defendants concealed that advice, while telling their own stockholders that Chris-Craft's offers were "inadequate" (and see Compl. 16(c) and (d)). Defendants certainly knew of their undisclosed business losses; their undisclosed had investments in the "Pocono" and "Twin Comanche" planes; and BPC's undisclosed problems with the Bangor & Aroostock Railroad ("BAR"). As Circuit Judge Timbers said in Chris-Craft, supra, at p. 93,510:

"They knew that the book value of the BAR set forth in the registration statement was no longer realistic. Considering the totality of the facts and circumstances, they failed to discharge their clear duty of proper disclosure."

- information along with their other multiple false or misleading statements and material omissions complained of, now determined adversely to the defendants. All public stockholders were thus denied Chris-Craft's offers within Section 14(e) of the Exchange Act; all were misled by the misconducts of management, aided by BPC, within Rule 10b-5 and Rule 10b-6 of the Securities and Exchange Commission (Chris-Craft, supra, at p. 93,517). Common questions are here. All of the statutory violations claimed by plaintiff (Compl. ¶ "9") have been sustained by a final determination in Chris-Craft, supra.
- 9. At this juncture, it should be pointed out, too, that as a result of the defendants' acts and practices complained of, Piper Aircraft was suspended and thereafter delisted from the New York Stock Exchange ("NYSE"). Piper Aircraft had been admitted to and traded its shares on the NYSE for many years (ever since Piper Aircraft went public). Piper Aircraft and its elected management, the Piper family, had great investor confidence of its public stockholders, in common, at the time of the wrongful and illegal acts and material omissions complained of; and the public stockholders lost their man et, in common, as a result thereof.
- trading on the Philadelphia stock exchange. From observation, small trades appear once in a while, sometimes a month or more apart, at prices of around \$30 per share, or less. No trades have appeared recently, and I have information that the shares sold have been substantially purchased by BPC, directly or

indirectly. The Piper Aircraft Board of Directors, controlled by BPC, has paid no dividends since September 15, 1969, shortly before which BPC was still acquiring Piper Aircraft shares (Chris-Craft, supra, at p. 93,498). Substantial regular cash dividends were paid by Piper Aircraft over the years prior to the wrongs complained of and extra dividends in stock were also paid.

- 11. The number of members of the class is not known, but it is believed to exceed 300 members.
- class. She is a public stockholder of Piper Aircraft, owning a beneficial interest in 150 of its common (voting) shares (inclusive of stock dividends), which she purchased on the NYSE, and she held such shares during the period of Christoraft's offers, as a result of the wrongful acts and material omissions of the defendants. She is in no way associated with any of the defendants; her attorneys are experienced in this type of litigation; they will diligently prosecute this action on behalf of the plaintiff and the class; and they have no interests adverse to the claims of class members.
- 13. Common questions of law and fact, among others, appear as follows:
- (a) Whether the defendants in their efforts to block Chris-Craft's tender and exchange offers induced plaintiff and other public shareholders of Piper Aircraft similarly situated not to accept Chris-Craft's tender and exchange offers, or dissuaded and prevented them from doing so, by false, deceptive or misleading statements, or material omissions and failure to disclose made in proxy or registration statements, press releases and letters, and otherwise

engaged in illegal or wrongful acts and practices and breached their fiduciary duties to Piper Aircraft and its shareholders for their self-interest and profit;

- (b) Whether such acts and practices constitute violations of the Securities Act of 1933 and the Securities Exchange Act of 1934 and the rules and regulations of the Securities and Exchange Commission; and
- (c) Whether the plaintiff and other shareholders of Piper Aircraft who hold, or sold their shares to BPC, were damaged thereby.

As required by Civil Rule 11A, plaintiff's class action allegations are fully alleged in the complaint.

14. A prior action in this Court (Stull v. Greene, 69 Civ. 440) was commenced by plaintiff on February 3, 1969, and is pending as a derivative and class action containing charges which have been expanded or modified by the subsequent disclosures in Chris-Craft, supra, the discovery proceedings in which we have progressively studied. Said prior action does not include the theory of liability and damages upon which the instant action is predicated. An application for consolidation has been made by the plaintiff and is presently pending before Judge Carter. Defendants' liability to the public stockholders of Piper Aircraft who, between January 23, 1969 and August 4, 1969, held their shares or sold their shares to BPC or to the other defendants, directly or indirectly, has been adjudicated by Chris-Craft, supra, and the misconducts found by the Court of Appeals in Chris-Craft fully

support the instant class action by the plaintiff and other public stockholders of Piper Aircraft similarly situated, on common questions of both law and fact. In Chris-Craft, supra, at p. 93,515, the Court of Appeals in no uncertain terms clearly found:

and at p. 93,516:

"The January letters to shareholders and the Grumman press release misled the Piper shareholders into believing that CCI's tender offer was undesirable."

"When Piper shareholders were deciding whether or not to accept CCI's exchange offer, many undoubtedly remembered and were influenced by the Piper family's misleading January statements portraying CCI as a company that made inadequate and unfair offers."

15. Our firm has engaged in stockholder litigations, principally brought for violation of the federal securities laws, for approximately fifteen years. We have tried or settled such actions and have obtained, with Court approval, substantial settlements on numerous occasions. Our firm has been awarded substantial fees by Judges of this Court, among other Federal Courts, in many such cases. Judges of this Court, among other Federal Courts, have granted class action determination in cases in which we have represented plaintiffs, several of which are presently pending in this Court. If a class action determination is granted, plaintiff's counsel will prosecute this suit to the best of their abilities on behalf of the class.

AFFIDAVIT OF ROBERT A. STULL IN SUPPORT OF MOTION

WHEREFORE, it is prayed that an order be granted herein determining that the instant action be maintained as a class action, and, if so, defining the class, and the form of notice to be given to the class, pursuant to Rule 23 (c) (1) Fed. Rules Civ. Proc. and Civil Rule 11A, and for such other and further relief as to the Court seems just.

Sworn to before me this

18th day of November, 1973

Diens Politic or How York

Commission Faple Forch 30, 1047

EXHIBIT "A" ANNEXED TO AFFIDAVIT OF ROBERT A. STULL,

:

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

LILLIAN STULL.

Plaintiff.

-against-

STIPULATION

72 Civ. 2055

CHARLES W. POOL,
WALTER C. JAMOUNEAU,
R. K. GRIFFIN, NORMAN J. GREENE,
HOWARD PIPER, THOMAS F. PIPER,
WILLIAM T. PIPER, JR. AND
WILLIAM T. PIPER, JR.,
THOMAS F. PIPER and HOWARD PIPER,
as EXECUTORS OF THE ESTATE OF
WILLIAM T. PIPER, DECEASED,
PIPER AIRCRAFT CORPORATION and
BANGOR PUNTA CORPORATION.

Defendants.

the undersigned attorneys for plaintiff and defendants Bangor
Punta Corporation, Piper Aircraft Corporation and Charles W. Pool,
Walter C. Jamouneau, R. K. Griffin, Howard Piper, William T. Piper,
Jr. and William T. Piper, Jr., and Howard Piper, as Executors of
the Estate of William T. Piper, Deceased, that all proceedings in
this action be stayed until the date on which the United States
Court of Appeals for the Second Circuit denies the Petitions
for Rehearing of the defendants in the action entitled Chris-Craft
Industries, Inc. v. Piper Aircraft Corporation, et al., Docket
No. 72-1064, or if rehearing is granted, the date upon which the
Court of Appeals renders its decision on such websaring.

EXHIBIT "A" ANNEXED TO AFFIDAVIT OF ROBERT A. STULL

IT IS FURTHER STIPULATED AND AGREED that the time within which all defendants shall answer or otherwise move with respect to the complaint herein be extended until twenty days after such date.

Dated: New York, New York April 5, 1973.

STULL & STULL

By: Riland!

A Member of the Firm

Attorneys for Plaintiff

WEBSTER SHEFFIELD FLEISCHMANN HITCHCOCK & BROOKFIELD

Rv.

A Member of the Firm

Attorneys for Defendants: BANGOR PUNTA CORPORATION and PIPER AIRCRAFT CORPORATION

CHADBOURNE, PARKE, WHITESIDE &

WOLFF

0000

A Member of the Firm

Attorneys for Defendants:
CHARLES W. POOL
WALTER C. JAMOUNEAU
R. K. GRIFFIN
HOWARD PIPER
WILLIAM T. PIPER, JR. and
WILLIAM T. PIPER, JR. and
HOWARD PIPER, as Executors
of the Estate of WILLIAM T.
PIPER, Deceased.

U.S.D.J.

EXHIBIT "B" ANNEXED TO AFFIDAVIT OF ROBERT A. STULL

CHADBOURNE, PARKE, WHITESIDF & WOLFF

25 BROADWAY, NEW YORK, N. Y. .. 004

DIOBY 4-8900

WASHINGTON, D. C. OFFICE 1150 17TH STREET, N. W. WASHINGTON, D. C. 20036

OPY

July 10, 1973

Son. Robert L. Carter United States District Court for the Southern District of New York Voley Square New York, New York

Coar Judge Carter:

This will advise you that William T. Piper. Sr., Sowerd Piper and Taomas P. Piper are patitioning for continent to the Second Circuit in Chris-Craft Tadastries. Inc. v. Piper Aircraft Corporation.

Deve Warkener

Irece C. Marshauer

co. Soull a Stoll, Suq. Attorneys for Plaintiff

> Youl, Weiss, Guiderg, Richiad, Whorton & Carrison Attorneys for Caleadant Chris-Craft Endastries, Inc.

Published, Salknay & Sabb, Shis. Actorneys for defendant Files Sirerait Corporation

Medator, Spessiold, Pictoriona. Mitchwork & Erodefield, Sogs. Reportage for defendant beauty Municipality

ENDORSEMENT.

LILLIAN STULL v. NORMAN J. GREENE, et al.; LILLIAN STULL v. CHARLES W. POOL, et al.

69 Civ. 440 72 Civ. 2055

ENDORSEMENT

DEC 28 1973
S. D. OF N. Y.

Plaintiff has moved for an order pursuant to Rule 42 of the Federal Rules of Civil Procedure, consolidating the action of 69 Civ. 440 with that of 72 Civ. 2055.

It is clear that there are questions of law and fact common to the two actions before me. All of the plaintiff's claims arose out of the continuous fight between the management of the Piper Aircraft Corporation and Chris-Craft Industries, Inc., for control of Piper. Consolidation would serve the purpose of avoiding needless duplication of time, effort, and expense and would generally expedite the administration of both actions.

While defendants object that there is conflict of interest inherent in this action insofar as plaintiff's class action allegations are in opposition to the corporation and its derivative claims are on behalf of the corporation, this contention appears to be most relevant to the determination of class status; it is not of controlling significance in deciding the immediate motion. See Ruggiero v. American Bioculture, Inc., 56 F.R.D. 93 (S.D.N.Y. 1972). It is generally recognized that consolidation does not merge the suits into a single cause, or change the rights of the parties, or make those who are parties in one suit parties in another. MacAlister v. Guterma, 263 F.2d 65, 68 (2d Cir. 1958).

For the foregoing reasons, plaintiff's motion for consolidation is granted.

SO ORDERED.

Dated: New York, New York December 27, 1973

> ROBERT L. CARTER U.S.D.J.

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK		
LILLIAN STULL,	-x :	
Plaintiff,	:	
-against	:	
CHARLES W. POOL, WALTER C. JAMOUNEAU, R. K. GRIFFIN, NORMAN J. GREENE, HOWARD PIPER, THOMAS F. PIPER, WILLIAM T. PIPER, JR., and WILLIAM T. PIPER, JR., THOMAS F. PIPER and HOWARD PIPER, as EXECUTORS OF THE ESTATE OF WILLIAM T. PIPER, DECEASED, PIPER AIRCRAFT CORPORATION, and BANGOR PUNTA CORPORATION,	:	AFFIDAVIT IN OPPOSITION 72 Civ. 2055 (RLC)
STATE OF NEW YORK) COUNTY OF NEW YORK)	-x	

PAUL G. PENNOYER, JR., being duly sworn, deposes and says:

- 1. I am a member of the Bar of this Court and of the firm of Chadbourne, Parke, Whiteside & Wolff, attorneys for the individual defendants who have been served herein. I make this affidavit in opposition to plaintiff's motion for an order pursuant to Rule 23(c)(1) of the Federal Rules of Civil Procedure, determining that this action be maintained as a class action.
- 2. This is a purported stockholders' representative action by Lillian Stull brought allegedly on behalf of certain present and former shareholders of Piper Aircraft Corporation ("Piper") arising out of the 1969 contest for control of Piper. Plaintiff's motion papers describe her as "owning and holding a beneficial interest" in 150 shares of Piper. I was advised in June 1973 by one of the individual defendants that plaintiff was not listed as a shareholder on Piper's books and records. I am further advised that an account was opened for Richard Stull, plaintiff's

husband and counsel herein, as the owner of 50 shares of Piper common stock and that an additional 25 shares of Piper common stock was issued to the said Richard Stull as the result of a stock dividend. Thus there is some question as to whether plaintiff is, in fact, a Piper shareholder.

- 3. The individual defendants named in this action are Norman J. Greene, Walter C. Jamouneau, Charles W. Pool, R. K. Griffin, Howard Piper, Thomas F. Piper, and William T. Piper, Jr. These defendant are also named as defendants in Stull v. Greene, et al., 69 Civ. 440 (RLC), a related action by plaintiff pending in this Court. Until March 25, 1969, they constituted the entire Board of Directors of Piper. Mr. Griffin and Mr. Greene were so-called "outside" directors of Piper who held no positions with Piper other than their positions on Piper's Board. All of them, with the exception of Norman J. Greene and Thomas F. Piper, have been served with process. Mr. Greene and Mr. Thomas F. Piper have neither been served nor appeared. In accordance with the direction of Judge Tenney, who stayed their time to answer pending plaintiff's motion to declare the within action a class action, the individual defendants who have been served have not answered. Only three of these named individual defendancs, Howard Piper, Thomas F. Piper and William T. Piper, Jr., were defendants in the suit by Chris-Craft referred to in paragraph 6 hereof.
- 4. On March 25, 1969, William T. Piper, deceased, whose Estate is sued herein, R. K. Griffin and Norman Greene, were not re-elected as members of the Board of Directors of Piper. Walter C. Jamouneau, Charles W. Pool, Howard Piper and Thomas F. Piper ceased to be members of Piper's Board on August 12, 1969.

5. The key events in the contest for control are as follows. On January 23, 1969, Chris-Craft Industries, Inc. ("Chris-Craft") announced a cash tender offer for 300,000 shares of Piper stock at \$65 per share. After receiving advice from outside consultants, Piper's Board of Directors passed a resolution opposing Chris-Craft's tender offer as "not in the best interests" of the shareholders of Piper. This opinion was communicated to Piper shareholders in a letter dated January 27, 1969. Chris-Craft successfully completed its cash tender offer on or about February 3, 1969, having received 304,606 shares of Piper, or 4,606 shares more than its tender offer contemplated. Seeking to gain additional Piper shares, Chris-Craft filed with the Securities and Exchange Commission a registration statement covering an exchange offer for a minimum of 80,000 and a maximum of 300,000 shares of Piper. This registration statement became effective on May 15, 1969 but was withdrawn in July 1969 when Chris-Craft failed to receive the minimum number of shares. Chris-Craft made a second exchange offer for Piper shares, effective on July 24, 1969 which increased by \$10 cash the value of the package of securities to be exchanged for each Piper share. This offer expired on August 4, 1969 with 112,089 shares having been tendered to Chris-Craft. Bangor Punta Corporation ("Bangor Punta") entered the contest for control in May 1969. Bangor Punta acquired shares of Piper through privately negotiated purchases, an exchange offer and purchases over the stock exchanges.

Chris-Craft lost the contest for control when Bangor Punta acquired over 50% of the stock of Piper in September 1969.

- 6. The contest for control of Piper received extensive publicity in the press and was the subject of numerous lawsuits by the parties to the contest for control as well as a suit by the Securities and Exchange Commission ("SEC") seeking an order requiring Bangor Punta to offer rescission to holders of Piper stock who accepted Bangor Punta's exchange offer. Certain of these suits, Chris-Craft Industries, Inc. v. Piper Aircraft Corporation, et al., Bangor Punta Corporation v. Chris-Craft Industries, Inc., Securities and Exchange Commission v. Bangor Punta Corporation, were tried before Judge Pollack of this Court. In the suit by the SEC, Judge Pollack ordered Bangor Punta to offer rescission to those Piper shareholders who had accepted its exchange offer. In appeals taken from Judge Pollack's decisions, the Second Circuit reversed in Chris-Craft Industries, Inc. v. Piper Aircraft Corporation, et al. but in Securities and Exchange Commission v. Bangor Punta Corporation affirmed Judge Pollack's order that Bangor Punta offer rescission to those Piper shareholders who tendered to it.
 - 7. In Stull v. Greene, plaintiff purports to sue both derivatively on behalf of Tiper Aircraft Corporation and its shareholders and as a representative of certain present and former Piper shareholders for injuries claimed to have been sustained during or as a result of the contest for control of Piper.

- 8. Plaintiff has moved for an order determining that this action may be maintained as a class action. The individual defendants submit that class action treatment herein is inappropriate under Rule 23 of the Federal Rules of Civil Procedure for each of the following reasons which are discussed in the memorandum served herewith:
- (1) Plaintiff cannot fairly and adequately represent the interests of the alleged class, as required by subdivision (a) (4) of the Rule;
- (2) Plaintiff's claims are not typical of the claims of the class she seeks to represent, as required by subdivision (a)(3) of the Rule;
- (3) This action does not satisfy the requirements of subdivision (b)(3) of the Rule because (i) questions of law and fact affecting individual members of the class predominate over questions common to the class; and (ii) the case is so complex and unmanageable that the class action procedure is not the superior method for adjudicating this controversy.
- 9. An extensive discussion of plaintiff's lack of typicality and the fact that she cannot fairly and adequately represent the class is contained in the memorandum of the individual defendants in opposition to this motion. Their position is based upon the uncertainty surrounding plaintiff's ownership of Piper stock, her legal representation by a family member -- particularly when viewed against her monetary interest in recovery as a possible shareholder in contrast to her potential share of legal fees -- and the inconsistent

positions she has taken in her other lawsuit, Stull v.

Greene. For the convenience of the Court the complaints in Stull v. Greene are annexed hereto as Exhibits A through E, respectively, as follows: original complaint, verified February 3, 1969 ("Greene complaint I"), amended complaint, verified March 12, 1969 ("Greene complaint II"), second amended complaint, verified April 7, 1969 ("Greene complaint III"), amended and supplemental complaint, verified May 29, 1969 ("Greene complaint IV"), and amended and supplemental complaint, verified May 13, 1970 ("Greene complaint V"). Plaintiff's affidavits of January 7, 1970 and March 10, 1970 in that action are Exhibits F and G.

- 10. Considered as an individul action alone, this case presents issues which in number and complexity will overwhelm a jury. Enumeration of a few of these issues will illustrate the point. They involve many unrelated statements alleged to be false or misleading which in turn deal with a number of separate unrelated transactions or events occurring over a seven-month period, each involving different individual defense positions. For instance:
 - (a) Paragraph 3(a) (v) of plaintiff's complaint alleges that the defendants made false or misleading statements concerning the inadequacy of Chris-Craft's cash tender offer and to induce Piper share-holders to vote management proxies at Piper's annual meeting which was scheduled for February 4, 1969.

 While plaintiff complains of all defendants in this respect, Bangor Punta will almost certainly

claim that these allegations do not create any issues as to Bangor Punta since it did not enter the contest for control until May 8, 1969, long after the events complained of transpired. The potential liability of the individual defendants for these allegations inter se is also divergent since two of the named defendants, Griffin and Greene, were outside directors at the time in question and one of them did not attend any Board meeting in 1969 and had nothing to do with the Board approval of the allegedly offending state-

ments.

(b) Subpart (ii) of said paragraph of the complaint alleges that the defendants induced Piper shareholders to exchange their "shares for a 'package' of" Bangor Punta securities "before they were registered." This allegation itself hinges on such questions as what is an offer of sale, assuming arguendo such an offer is found, whether there is a private right of action against a person who makes such an offer or "inducements, and what possible damages could exist when no " actual sales were made. This is further complicated by the differing potential liabilities of the various named defendants. Certainly Greene and Griffin, who had severed all connections with Piper prior to Bangor Punta's entry into the contest for control, could not be liable under these allegations and any charge to the jury concerning these claims would have to exclude them. Similarly, there will be

different defenses and potentials for liability among the individual defendants and between the individual defendants and Bangor Punta.

- (c) Subpart (iii) of said paragraph of the complaint bontains allegations concerning the private purchase of shares allegedly after a public offering of stock. The issues pertinent to this allegation involve determinations of when the public offering was made, the nature of the private purchases, and whether there is a private right of action under any statute claimed to have been violated. At the time these purchases were made, Greene and Griffin were no longer on the Piper Board and could not be liable under these allegations. The other individual defendants contend and will prove that they had no knowledge of or participation in these purchases and a charge to the jury to that effect will be necessary.
- (d) Subpart (iv) of said paragraph of the complaint alleges the failure to disclose and the issuance of false reports concerning alleged defects in certain Piper products. Bangor Punta will probably claim that it had no knowledge of any of the matters referred to in this allegation.

 Named defendant Greene and Griffin severed their connection with Piper on March 25, 1969, and their potential liability on these matters would be limited to events prior to that date. Again, their liability, if any, would be affected by their status as outside directors. Defendants Jamouneau,

Pool, Thomas Piper and Howard Piper ceased to be Piper Directors on August 12, 1969. Since certain of the key facts relating to the matters alleged in this part of the complaint occurred after that date, their potential liability would be restricted to events prior thereto. Any charge to the jury on this issue would require a distinction as to both the time periods involved and the knowledge possessed by the different defendants of the matters in question, in addition to the basic questions of what was said or what plaintiff claims should have been said, whether it was true or misleading, whether there was an obligation to make any statement at all, whether plaintiff relied upon any of the statements made, or even entered into a securities transaction within the relevant time period.

(e) Subpart (v) of said paragraph of the complaint alleges matters concerning Bangor Punta's financial statements. Once again, named defendant Greene and Griffin would have to be distinguished in any jury charge relating thereto, since they severed their connection with Piper long prior to the events in question. The other individual defendants, none of whom were ever members of the Bangor Punta Board, will assert that they had no knowledge of these matters. Bangor Punta's allegations and potential liability on this issue, as well as plaintiff's standing to raise the issue

(since she does not appear to have purchased or sold Bangor Punta securities during the period in question) would have to be determined by the jury based on appropriate instructions.

- (f) Subpart (vi) of said paragraph of the complaint alleges a failure to disclose an agreement between the individual defendants and Bangor Punta. Named defendant Greene, Griffin, Pool and Jamouneau were not parties to any agreement with Bangor Punta. Named defendant Greene and Griffin had no knowledge of any such agreement. The existence of any such agreement, the parties to it, its effect, the existence of an obligation to disclose it, whether any liability flowed from any such alleged obligation, and whether plaintiff has any standing to raise these matters or has sustained damages as a consequence thereof are all issues which will have to be delineated and tried.
- (g) Superimposed upon all of the above are problems of complexity raised by plaintiff's allegation that the individual defendants were acting in their own interests. The distinctive factual and legal positions of each defendant will require, on this issue alone, a charge so complex as to confuse any jury.
- 11. These complexities cannot be swept under the rug by labeling this a conspiracy case. An actionable conspiracy can only be founded upon concerted action

(since she does not appear to have purchased or sold Bangor Punta securities during the period in question) would have to be determined by the jury based on appropriate instructions.

- (f) Subpart (vi) of said paragraph of the complaint alleges a failure to disclose an agreement between the individual defendants and Bangor Punta. Named defendant Greene, Griffin, Pool and Jamouneau were not parties to any agreement with Bangor Punta, had no knowledge of any such agreement and a jury charge to that effect will be necessary. The existence of any such agreement, the parties to it, its effect, the existence of an obligation to disclose it, whether any liability flowed from any such alleged obligation, and whether plaintiff has any standing to raise these matters or has sustained damages as a consequence thereof are all issues which will have to be delineated and tried.
- (g) Superimposed upon all of the above are problems of complexity raised by plaintiff's allegation that the individual defendants were acting in their own interests. The distinctive factual and legal positions of each defendant will require, on this issue alone, a charge so complex as to confuse any jury.
- 11. These complexities cannot be swept under the rug by labeling this a conspiracy case. An actionable conspiracy can only be founded upon concerted action

to achieve an illegal objective. The only common objective charged in this complaint is resistance to a Chris-Craft takeover of Piper Aircraft Corporation -- a perfectly legal objective in itself.

- of the myriad allegations contained in plaintiff's complaint demonstrates that this is no ordinary securities fraud case. It is an exceedingly complex case involving many factual and legal issues whose intricacy is magnified by the joinder of seven named individual defendants, an estate and two corporate defendants. The potential liability of the defendants, assuming the truth of the allegations of the complaint, is different on most, if not all, of the issues raised, because of their differing knowledge of the various matters, their variant duties and legal obligations concerning such matters, and the different time periods during which they were participants, if at all, in the events in question.
- this action may proceed as a class action would superimpose upon this already complex jury case so many
 additional complexities as to make the suit totally unmanageable. The difficulties of identifying plaintiff's
 purported class members are set forth in the memorandum
 of the individual defendants and will not be repeated
 herein. Plaintiff's class definition appears to
 aggregate several distinct and overlapping categories
 of potential class members. For the purpose of determining potential liability of any given defendant to
 any purported class member, the trial of this matter will

necessitate individual determination of when each such class member purchased or sold his or her stock and what, if anything, he or she was induced to do by what statement of which defendant.

For example, a Piper shareholder who purchased his stock after March 25, 1969 would have no claim against Greene or Griffin. If he sold his stock solely in reliance upon the Bangor Punta registration statement, the validity of his claim would relate only to the potential liability of Bangor Punta and the jury would have to be charged that as to that plaintiff it must disregard any actions of the individual defendants and Piper. As to a purported class member who sold prior to May 8, 1969, any jury charge would have to exclude Bangor Punta, limit the potential liability of named defendant Greene and Griffin, and set forth exactly what was relied woon and who was responsible therefor, whether it is actionable, whether liability should attach, and the amount of damages, if any. Since most, it not all, of the potential plaintiffs are in separate categories varying with their dates of purchases, dates of sale and what they were "induced" to do when and by whom, a distinction would have to be made as to each such potential plaintiff regarding which defendants may be liabile to him and what actions would be the basis for any such liability.

14. Under these circumstances, it is respectfully submitted that a jury trial encompassing the aforesaid issues would be totally unmanageable as a class action. Moreover, it would be unduly burden-

some and prejudicial to the individual defendants to declare this case a class action, thus imposing upon them the costs of defending themselves against such complex and diverse claims, including the costs of discovery of the purported class members. Manifestly, no economies of time, effort or expense will be achieved by the class action procedure in this case. Therefore, I respectfully request that plaintiff's motion to determine that the within action may be maintained as a class action be denied in all respects.

Paul G. Pennoyer, Jr.

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Sworn to before me this day of January, 1974

Notary Public BERNARD J. ROSENTHAL Notary Public, State of New York

No. 24-4503156 Qualified in sings County Commission Expires March 30, 1975

Cation States District Court

FOR THE

SOUTHERN DISPRICT OF NEW YORK



69	CIVIL ACTION FILE NO 2240
	SERVED 2-18-69
	FILED
	For

SUMMONS

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MORNAN J. GRIENE, MALTER C. JAMOUNEAU, CHARLES W. POOL, R. K. GRIFFIN, HOWARD PIPER, THOMAS F. PIPER, WILLIAM T. PIPER, JR., WILLIAM T. PIPER, JR., WILLIAM T. PIPER, GRUMMAN AIRCRAFT ENGINEERING CORPORACION 214 CHRIS-CRAFT INDUSTRIES, INC.,

Defendant s.

To the above named Defendant s:

LILLIAN STULL,

You are hereby summoned and required to serve upon STULL & STULL

plaintiff's attornays, whose address is 6 East 45th Street, New York, New York, 10017

an answer to the complaint which is herewith served upon you, within 20 days after service of this summers upon you, exclusive of the day of service. If you fail to do so, judgement by default will be taken against you for the relief demanded in the complaint.

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Deputy Cieria

Dia: February 3 1969

[Seel of Court]

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

LILLIAN STULL,

Plaintiff,

NORMAN J. GREENE, WALTER C. JAMOUNEAU, CHARLES W. POOL, R. K. GRIFFIN, HOWARD PIPER, THOMAS F. PIPER, WILLIAM T. PIPER, GRUMMAN AIRCRAFT ENGINEERING CORPORATION and CHRIS-CRAFT INDUSTRIES, INC., and Piper Christies Constant Defendants.

Plaintiff, complaining of the defendants, by STULL & STULL, her attorneys, alleges upon information and belief, except as to paragraph "1" of the complaint, which is alleged on knowledge:

FIRST COUNT

- 1. (a) That plaintiff is a stockholder of Piper
 Aircraft Corporation ("Piper") owning 150 shares of its common
 (voting) stock, which she purchased on the New York Stock
 Exchange ("NYSE"), a National Securities Exchange, as defined
 in and by the Securities Exchange Act of 1934 ("Act") in the
 City and County of New York; that plaintiff owned such shares
 prior to the acts and practices complained of.
- (b) That plaintiff brings this action representatively on her own behalf and on behalf of other stockholders of Piper similarly situated, and derivatively on behalf of Piper.

 Plaintiff is a citizen and resident of the State of Connecticut.

- 2. That Piper is and at the time of the acts and practices complained of was a Pennsylvania corporation, doing business in the State of New York, and its stock was listed and traded on the NYSE; that Piper is and for many years has been engaged in the manufacture and distribution of light aircraft.
- 3. That defendant Chris-Craft Industries, Inc. ("Chris-Craft") is a Delaware corporation; that at the times complained of Chris-Craft's executive offices were in the City and County of New York; that it engaged in multiple fields of business and was commonly known as a conglomerate; that its stock was and is listed and traded on the NYSE.
- 4. That defendant Grumman Aircraft Engineering Corporation ("Grumman") is a New York corporation; that at the times complained of Grumman's executive offices were in Nassau County, State of New York; that it engaged or seeks to become engaged in multiple fields of business and was commonly known as or seeks to become a conglomerate, and its stock was and is listed and traded on the NYSE.
- 5. That the individual defendants are or were directors and officers of Piper who committed the acts of misconduct complained of and caused Piper to engage in such acts and practices, in violation of Section 105 of the Act (15 USC 78j) and Rule 105-5 of the Securities and Exchange Commission ("SEC") (17 CFR 240. 105-5) or are chargeable therewith; that said defendants are citizens of States other than Connecticut; that defendant Grumman has aided and abetted the acts and practices of the individual defendants complained of; that defendant Christian Craft has engaged in acts and practices in violation of Sections

9 and 14 of the Act and Regulation 14 of the SEC (15 USC 781, n; 17 CFR 240. 14a-2 et seq.).

- 6. That the jurisdiction of this Court is founded on Section 27 of the Act 915 USC 78a2) and on diversity of citizenship and amount involved exceeding \$10,000.00 (28 USC 1332) The acts and practices complained of occurred in whole or part in the Southern District of New York.
- 7. That prior to the times complained of Piper was a family corporation of William T. Piper, who is presently Chairman of its Board of Directors and his son, William T. Piper, Jr., is presently President of Piper; that Piper is a pioneer and leader in the field of light aircraft. That the Piper family has retained control over Piper over the years by cumulative voting and by the confidence of its stockholders; that its annual meeting for the election of directors was heretofore scheduled for February 4, 1969.
- 8. That in and about the early part of January, 1969, or prior thereto, defendant Chris-Craft acquired some 200,500 shares of Piper; that Chris-Craft, intending and timing a raid on Piper stock with a view to gain control over Piper at the annual meeting scheduled to be held on February 4, 1969, released the news of its said acquisition on or about January 20, 1969 and it made a tender offer for 300,000 shares of Piper at \$65.00 per share; that Piper has traded on the NYSE at prices in excess of \$70.00 per share.
- 9. That thereupon and thereafter Piper shares which were selling on the NYSE, prior to Chris-Craft's tender offer at market prices of less than \$55.00 per share jumped to slightly less than the Chris-Craft tender offer of \$65.00 per share.

- 10. That thereupon the individual defendants, or some of them, with knowledge and participation of all, caused Piper to advise Piper stockholders, including the plaintiff, not to sell to Chris-Craft for the reason, as they stated, that the Chris-Craft tender offer is "inadequate and not in the best interests of Piper stockholders".
 - 11. That thereupon and thereafter the individual defendants continued to solicit proxies for the Piper annual meeting of February 4, 1969 for the purpose and with the intent to defeat the attempt of Chris-Craft to elect one or more directors of Piper at said annual meeting of Piper.
 - 12. That nevertheless and solely to perpetuate or insure their control of Piper and their election to the Piper Board of Directors at Piper's annual meeting scheduled for February 4, 1969, and to defeat and prevent defendant Chris-Craft from electing directors of Piper, or gaining control of Piper's Board of Directors at said annual meeting, the individual defendants conspired with defendant Grumman to sell Grumman an offsetting block and identical number of 300,000 of Piper shares from Piper's treasury stock at the identical price of \$65.00, and they did so on or about January 30, 1969.
 - 13. That defendants' issue of 300,000 shares of Piper's treasury stock to defendant Grumman at \$65.00 per share was for less than their value and was timed and purposed solely to counteract the Chris-Craft objectives and to retain control by the individual defendants in and over Piper, upon an understanding that defendant Grumman would vote such stock for management and perpetuate the individual defendants, or their designees as directors and officers of Piper and Piper and the stock of the plaintiff and other stockholders of Piper has been diluted and depreciated and Piper and its stockholders have been damaged thereby.

- 14. That the issuance of such 300,300 chares of Piper to defendent Grunnen was illegal and invalid and should be cancelled and set aside by the Court.
- 15. That this action is not a collusive one to confer on a Court of the United States jurisdiction of an action of which they would not otherwise have jurisdiction.
- of Directors of Piper and/or Piper to bring action for the misconduct here complained of, because such a demand would be futile. The said directors are the very individuals against whom complaint is made and who are defendants in this action, and to make demand upon them or against them would be tantamount to asking that they sue them eves. If any such action were brought by such directors, it could not and would not be effectively prosecuted.
 - nolders of Piper to bring action for the misconduct here complained of, because such a demand is unnecessary and is not required by law and it would be futile, (1) because under the charter and by-laws of Piper, the management of its affairs, including the bringing of suits, is entrusted to its Board of Directors and not to the stockholders; (2) stockholders of Piper cannot by resolution or otherwise require Piper or its stockholders to bring such an action; and (3) a stockholders' resolution demanding the bringing of such an action would be futile since control of the action would be in the hands of the very persons who are alleged to be the wrongdoers and cannot be properly prosecuted by them.
 - 18. That plaintiff and the stockholders of Piper similarly situated who sustained loss and damage by the

urchaful acts of the defendants as hereinabove net forth constitute a class so numerous that joinder of all members thereof would be impracticable; that there are questions of law and fact common to the class; that the claims of plaintiff as a representative party are typical of the claims of the class; and the plaintiff as a representative party will fairly and adequately protect the interests of the class. The prosecution of separate actions by individual members of the class would create a risk of inconsistent or varying adjudications with respect to individual members of the class which would establish incompatible standards of conduct for the parties opposing the class. An adjudication of plaintiff's claims would as a practical matter be dispositive of the interests of other members not partie to such adjudication. The bringing of this action is the best method or medium for the fair and efficient adjudication of the controversy.

. SECOND COUNT

11. "

- 19. Plaintiff repeats and reiterates the allegations of paragraphs "I" to "IS", both inclusive, as if now fully and at length set forth.
- 20. That as a result of the foregoing, and in the alternative, the defendant Grumman should be compelled to pay an adequate price for such 300,000 shares of Piper as determined by the Court.

THIRD COUNT

21. Plaintiff repeats and reiterates the allegations of paragraphs "1" to "13", both inclusive, and "15", "16", "17" and "18", as if now fully and at length set forth.

- 22. That defendent Chris-Craft's tender offer was calculated and timed for the purpose of controlling Piper's Board of Directors, or the Board of Directors to be elected at the annual messing of Piper on February 4, 1959, with a view of controlling Piper as a first and initial step to merge Piper into or with Chris-Craft in a self-dealing operation for less than fair value of Piper as an arm or subsidiary of a conglomerate in a remote business.
- 23. That defendant Grunnen furthermore failed to fully and clearly reveal its intended purpose as required by Section 14 of the Act and Rule 142-5 of the SEC for the solicitation of proxies, on which said defendant's tender offer was conditioned.
- 24. That defendant Grumman furthermore violated
 Sections 9 and 16 of the Act in that said defendant conspired
 with third parties to and it did conceal from Piper, its
 management and its stockholders, the acquisition by defendant
 Chris-Craft of at least 200,500 shares of Piper or the beneficial
 interest therein, which was a control interest in Piper.
- 25. That the election of directors of Piper, a public corporation, for the purpose intended by defendant Chris-Craft is illegal and should be set aside by the Court.
- 25. That the election of directors of Piper, directly or indirectly by Chris-Craft, by the acts and practices complained of is illegal and should be set aside by the Court.
- 27. That in the alternative, any such Board of Directors elected by defendant Chris-Craft for the purpose, or in the manner complained of, should be ordered to require Chris-Craft

to pay Piper and its stockholders thefair value of Piper as an arm or subsidiary of Chris-Craft, as a conglomerate in a remote business.

WHEREFORE, plaintiff prays judgment:

- (1) That the Court should declare and determine the rights and obligations of the defendants to Piper and its stockholders.
- (2) That the election of directors at the Annual Meeting of Piper'on February 4, 1969 should be enjoined, or if held, vacated and set aside by the Court and a new election ordered under the direction of the Court and upon terms and conditions and voting as determined by the Court.
- (3) That defendants, jointly and severally, should be directed to account and pay to Piper and/or its stockholders all damages and profits derived by said defendants, directly and indirectly, as a result of the wrongful acts and self-dealing alleged in this complaint, in the amount of at least \$1,000,000.00 together with interest, punitive and exemplary damages as provided by law, and measonable counsel and accountants' fees and costs.

STULL & STULL Attorneys for Plaintiff

By: S Richard : 12 A member of the firm Office & P. O. Address 6 East 45th Street

New York, New York, 10017 687-7230

STATE OF MEN YORK) COUNTY OF MEW YORK)

> LILLIAN STULL, being duly sworn, deposes and says:

That deponent is the plaintiff in the within action; that deponent has read the foregoing complaint and knows the contents thereof; that the same is true to depoment's own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters deponent believes it to be true.

Sworn to before me this

day of February, 1969.

OWENDELYN A. CONNELLY Heart Desire Crab of their York En. 34-570-57-5 Countries in Hope Grand Countries Expires No. 25, 1570

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK RED LYDD 3-14-69

LILLIAN STULL,

Plaintiff,

AMENDED COMPLAINT

NORMAN J. GREENE, WALTER C. JAMOUNEAU, CHARLES W. POOL, R. K. GRIFFIN, HOWARD PIPER, THOMAS F. PIPER, WILLIAM T. PIPER, JR., WILLIAM T. PIPER, GRUMMAN AIRCRAFT ENGINEERING CORPORATION and CHRIS-CRAFT INDUSTRIES, INC., and PIPER AIRCRAFT CORPORATION.

69 Civ. 440

Defendants.

Plaintiff, for her amended complaint, by STULL & STULL, her attorneys, alleges upon information and belief, except as to paragraph "l", which is alleged on knowledge:

FIRST COUNT

- 1. (a) That plaintiff is a stockholder of Piper
 Aircraft Corporation ("Piper") owning 150 shares of its common
 (voting) stock, which she purchased on the New York Stock Exchange
 ("NYSE"), a National Securities Exchange, as defined in and by
 the Securities Exchange Act of 1934 ("Act") in the City and
 County of New York; that plaintiff owned such shares prior to
 the acts and practices complained of.
- (b) That plaintiff brings this action representatively on her own behalf and on behalf of other stockholders of Piper similarly situated, and derivatively on behalf of Piper. Plaintiff is a citizen and resident of the State of Connecticut.
- 2. That Piper is and at the time of the acts and practices complained of was a Pennsylvania corporation, doing business in the State of New York, and its stock was listed

and traded on the NYSE; that Piper is and for many years has been engaged in the manufacture and distribution of light aircraft.

- 3. That defendant Chris-Craft Industries, Inc.

 ("Christ-Craft") is a Delaware corporation; that at the times complained of Chris-Craft's executive offices were in the City and County of New York; that it engaged in multiple fields of business and was commonly known as a conglomerate; that its stock was and is listed and traded on the NYSE.
- 4. That defendant Grumman Aircraft Engineering Corporation ("Grumman") is a New York corporation; that at the times complained of Grumman's executive offices were in Nassau County, State of New York; that it engaged in fields kindred to but non-competitive with Piper, and its stock was and is listed and traded on the NYSE.
- directors and officers of Piper who committed the acts of misconduct complained of and caused Piper to engage in such acts and practices, in violation of Section 10b of the Act (15 USC 76) and Rule 10b-5 of the Securities and Exchange Commission ("SEC") (17 CFR 240. 10b-5) or are chargeable therewith; that said defendants are citizens of States other than Connecticut; that defendant Grumman has aided and abetted the acts and practices of the individual defendants complained of; that defendant Chriscoraft was engaged in acts and practices in violation of Sections 9 and 14 of the Act and Regulation 14 of the SEC (15 USC 781, n; 17 CFR 240. 14a-2 et seq.).
 - 6. That the jurisdiction of this Court is founded on

Section 27 of the Act. (15 USC 78aa) and on diversity of citizenship and amount involved exceeding \$10,000.00 (28 USC 1332).

The acts and practices complained of occurred in whole or part in the Southern District of New York.

- 7. That prior to the times complained of Piper was a family corporation of William T. Piper, who is presently Chairman of its Board of Directors and his son, William T. Piper, Jr., is presently President of Piper; that Piper is a pioneer and leader in the field of light aircraft. That the Piper family has retained control over Piper over the years by cumulative voting and by the confidence of its stockholders; that its annual meeting for the election of directors was heretofore scheduled for February 4, 1969.
- 8. That in and about the early part of January, 1969, or prior thereto, defendant Chris-Craft acquired some 200,500 shares of Piper; that Chris-Craft, intending and timing a raid on Piper stock with a view, among other things, to gain control over Piper at the annual meeting scheduled to be held on February 4, 1969, released the news of its said acquisition on or about January 20, 1969 and it made a tender offer for 300,000 shares of Piper at \$65.00 per share; that said tender offer was conditioned upon Piper stockholders executing a proxy to Chris-Craft for the election of directors at the forthcoming Piper annual meeting, scheduled for February 4, 1969.
- 9. That thereupon and thereafter Piper shares which were selling on the NYSE, prior to Chris-Craft's tender offer at market prices of less than \$55.00 per share jumped to slightly less than the Chris-Craft tender offer of \$65.00 per share.

 That Piper, prior to the time of the acts and practices complained of, has traded on the NYSE at prices in excess of \$70.00 per share.

- of them, with knowledge and participation of all, by letters sent to stockholders and press releases in the public press, wrongfully sought to induce plaintiff and other stockholders of Piper not to sell their Piper shares to Chris-Craft, and instead to execute proxies to Piper management's nominees, which they solicited for the reason as they stated that Chris-Craft's tender offer is "inadequate and not in the best interests of Piper stockholders"; but they omitted to state what would be an adequate offer, and they omitted to state that their sole objective was to prevent Chris-Craft from electing directors to replace the individual defendants or some of them at Piper's said annual meeting to be held February 4, 1969 and to so perpetuate themselves in office.
- 11. That thereupon and thereafter the individual defendants continued to solicit proxies for the Piper annual meeting of February 4, 1969 for the purpose and with the intent to defeat the attempt of Chris-Craft to elect one or more directors of Piper at said annual meeting of Piper.
- of their plan and scheme to perpetuate or insure their control of Piper and their election to the Piper Board of Directors at Piper's said annual meeting scheduled for February 4, 1969, and to defeat and prevent defendant Chris-Craft from electing directors of Piper, or gaining control of Piper's Board of Directors at said annual meeting, the said individual defendants conspired with the defendant Grumman to sell Grumman an offsetting block and identical number of 300,000 shares of Piper, from Piper's treasury stock, at the identical price of \$65.00 per share, and defendants, except Chris-Craft, in furtherance of

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such conspiracy, procured such sale to be approved by the Grunman and Piper Boards of Directors, on or about January 30, 1969.

- Chris-Craft, to issue 300,000 shares of Piper Treasury stock to defendant Grumman at \$65.00 per share, was for less than their value and the same was purposed solely to counteract the Chris-Craft objectives, and to retain control in and over Piper by the individual defendants, upon an understanding with defendant Grumman that Grumman would vote such stock for Piper's management and perpetuate the individual defendants, or their designees, as directors and officers of Piper and dilute, depreciate, and hold down the value of Piper stock, to the loss and damage of Piper and its stockholders.
- 14. That said damage and loss to Piper, the plaintiff and other Piper stockholders was caused solely by the acts and practices of the defendants herein complained of and the defendants responsible should be required to account therefor.
- 15. That the agreement to sell such 300,000 shares of Piper to defendant Grumman, at \$65.00 per share, was a manipulation of Piper stock for self-dealing purposes of the individual defendants and Grumman and is unenforceable by defendants.
- 16. That this action is not a collusive one to confer on a Court of the United States jurisdiction of an action of which they would not otherwise have jurisdiction.
- 17. That plaintiff has made no demand upon the Board of Directors of Piper and/or Piper to bring action for the misconduct here complained of, because such a demand would be futile. The said directors are the very individuals against whom complaint

is made and who are defendants in this action, and to make demand upon them or against them would be tantamount to asking that they sue themselves. If any such action were brought by such directors, it could not and would not be effectively prosecuted.

- holders of Piper to bring action for the misconduct here complained of, because such a demand is unnecessary and is not required by law and it would be futile, (1) because under the charter and by-laws of Piper, the management of its affairs, including the bringing of suits, is entrusted to its Board of Directors and not to the stockholders; (2) stockholders of Piper cannot by resolution or otherwise require Piper or its stockholders to bring such an action; and (3) a stockholders resolution demanding the bringing of such an action would be futile since control of the action would be in the hands of the very persons who are alleged to be the wrongdoers and cannot be properly prosecuted by them.
 - 19. That plaintiff has no adequate remedy at law.

SECOND COUNT

- 20. Plaintiff repeats and reiterates the allegations of paragraphs "1" to "19", both inclusive, as if now fully and at length set forth.
- 21. That plaintiff and the stockholders of Piper similarly situated who sustained loss and damage by the wrongful acts of the defendants as hereinabove set forth constitute a class so numerous that joinder of all members thereof would be impracticable; that there are questions of law and fact common to the class; that the claims of plaintiff as a representative party are typical of the claims of the class;

and the plaintiff as a representative party will fairly and adequately protect the interests of the class. The prosecution of separate actions by individual members of the class would create a risk of inconsistent or varying adjudications with respect to individual members of the class which would establish incompatible standards of conduct for the parties opposing the class. An adjudication of plaintiff's claims would as a practical matter be dispositive of the interests of other members not parties to such adjudication. The bringing of this action is the best method or medium for the fair and efficient adjudication of the controversy.

THIRD COUNT

- 22. Plaintiff repeats and reiterates the allegations of paragraphs "1" to "19", both inclusive, as if now fully and at length set forth.
- 23. That by reason of the foregoing, defendant Grumman should be compelled to acquire the said 300,000 shares of Piper, which it agreed to purchase, at fair value; that such agreement which the defendants, except defendant Chris-Craft, conspired at for less than fair value should be enforced by decree of the Court upon terms and conditions ordered by the Court.

FOURTH COUNT

- 24. Plaintiff repeats and reiterates the allegations of paragraphs "1" to "13", both inclusive, and "16", "17", "18" and "19", as if now fully and at length set forth.
- 25. That defendant Chris-Craft's tender offer was calculated and timed for the purpose of controlling Piper's Board of Directors, or the Board of Directors to be elected at the annual meeting of Piper on February 4, 1969, with a view

of controlling Piper as a first and initial step to merga Piper into or with Chris-Craft in a self-dealing operation for less than fair value of Piper as an arm or subsidiary of a conglomerate in an unrelated business, contrary to the interests of Piper and the position taken by the anti-trust division of the United States Department of Justice in such transactions.

- 26. That defendant Chris-Craft furthermore failed and omitted, among other things, to clearly reveal its intended purpose as required by Section 14 of the Act and Rule 14a-15 of the SEC for the solicitation of proxies, on which said defendant's tender offer was conditioned.
- 27. That defendant Chris-Craft furthermore violated Sections 9 and 16 of the Act in that said defendant conspired with third parties to and it did conceal from Piper, its management and its stockholders, the acquisition by defendant Chris-Craft of at least 200,500 shares of Piper or the beneficial interest therein, which was a control interest in Piper.
- 28. That the election of directors of Piper, a public corporation, for the purpose intended by defendant Chris-Craft is illegal and should be set aside by the Court.
- or indirectly by Chris-Craft, by the acts and practices complained of is illegal and should be set aside by the Court.
- any such Board of Directors elected by defendant Chris-Craft for the purpose, or in the manner complained of, should be ordered to require Chris-Craft to pay Piper and its stockholders the fair value of P.per as an arm or subsidiary of Chris-Craft, as a conglomerate in a remote business.

WHEREFORE, plaintiff prays judgment:

(1) That the Court should declare and determine

the rights and obligations of the defendants to riper and its stockholders.

- (2) An injunction should be granted by the Court, restraining the enforcement of the agreement between Grumman and Piper for the purchase of the said 300,000 shares of Piper, at \$65.00 per share; and a take-over of Piper by or merger with Chris-Craft.
- (3) . Defendant Grumman should be directed to pay fair value for the 300,000 shares of Piper it agreed to purchase and said agreement should otherwise be enforced by decree of the Court.
- (4) That defendants, jointly and severally, should be directed to account and pay to Piper and/or its stockholders all damages and profits derived by said defendants, directly and indirectly, as a result of the wrongful acts and self-dealing alleged in this complaint, in the amount of at least \$1,000,000.00 together with interest, punitive and exemplary damages as provided by law.
- (5) That the election of directors at the Annual Meeting of Piper on February 4, 1969 should be enjoined, or if held, vacated and set aside by the Court and a new election ordered under the direction of the Court and upon terms and conditions and voting as determined by the Court.
- (6) That plaintiff, on behalf of herself, and other stockholders of Piper, similarly situated, requests that this Court determine that the Second Count of this complaint be maintained as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure.
 - (7) Granting plaintiff such other, further and

different relief as to the Court seems just.

(8) Awarding plaintiff reasonable attorneys' and accountants' fees and expenses, and the costs and disbursaments of this action.

STULL & STULL Attorneys for Plaintiff

By:

A Member of the firm
Office and P. O. Address
6 East 45th Street
New York, New York 10017
687-7230

STATE OF NEW YORK)' SS.

LILLIAN STULL, being only sworn, deposes and says:

That deponent is the plaintiff in the within action; that deponent has read the foregoing complaint and knows the contents thereof; that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters deponent believes it to be true.

Lillian Stull

Sworn to before me this

day of March, 1969

ndryn L. Grankly

Hotary Public, State of New York
No. 24-5784875
Qualified is Kinga County
Completed Expires Larch 30, 1970

> ELCEIVED . Fy______

UNITED STATES DISTRICT COURT " SOUTHERN DISTRICT OF NEW YORK

TILLIAN STULL,

Plaintiff.

SECOND AMENDED COMPLAINT

NORTAN J. GREENE, WALTER C. JAMOUNEAU, CHARLES W. POOL, R. K. GRIFFIN, HOWARD 69 CIV. 440 PIPER, THOMAS F. PIPER, WILLIAM T. PIPER, JR., WILLIAM T. PIPER, GRUMMAN ATRCRAFT ENGINEERING CORPORATION and ATROPAST ENGINEERING COMPONENT OF CHRIS-CRAFT INDUSTRIES, INC., and PIPER AIRCRAFT CORPORATION,

Dofondants.

Plaintiff, for her amended complaint, by STULL & STULL, her attorneys, alloges upon information and belief, except as to paragraph "1", which is alloged on knowledge:

FIRST COUNT

- 1. (a) That plaintiff is a stockholder of Pipor Aircraft Corporation ("Piper") owning 150 shares of its common (voting) stock, which she purchased on the New York Stock Exchange ("NYSE"), a National Securities Exchange, as defined in and by the Securities Exchange Act of 1934 ("Act") in the City and County of New York; that plaintiff owned such shares prior to the acts and practices complained of.
- (b) That plaintiff brings this action representatively on her own behalf and on behalf of other stockholders of Piper similarly situated, and derivatively on behalf of Pipe Plaintiff is a citizen and resident of the State of Connecticut.
- 2. That Piper is and at the time of the acts and practices complained of was a Pennsylvania corporation, doing business in the State of New York, and its stock was listed

and traded on the NYSE; that Piper is and for many years has been engaged in the manufacture and distribution of light aircraft.

- 3. That defendant Chris-Craft Industries, Inc.

 ("Christ-Craft") is a Delaware corporation; that at the times complained of Chris-Craft's executive offices were in the City and County of New York; that it engaged in multiple fields of business and was commonly known as a conglomerate; that its stock was and is listed and traded on the NYSE.
- 4. That defendant Grumman Aircraft Engineering Corporation ("Grumman") is a New York corporation; that at the times complained of Grumman's executive offices were in Nassau County. State of New York; that it engaged in fields kindred to but non-competitive with Piper, and its stock was and is listed and traded on the NYSE.
- directors and officers of Piper who committed the acts of misconduct complained of and caused Piper to engage in such acts
 and practices, in violation of Section 10b of the Act (15 USC 783)
 and Rule 10b-5 of the Securities and Exchange Commission ("SEC")
 (17 CFR 240. 10b-5) or are chargeable therewith; that said
 defendants are citizens of States other than Connecticut; that
 defendant Grumman has aided and abotted the acts and practices of
 the individual defendants complained of; that defendant ChrisCraft was engaged in acts and practices in violation of Sections
 9 and 14 of the Act and Regulation 14 of the SEC (15 USC 781, n;
 17 CFR 240. 14a-2 et seq.).
 - 6. That the jurisdiction of this Court is founded on

Section 27 of the Act (15 USC 78aa) and on diversity of citizenship and amount involved exceeding \$10,000.00 (20 USC 1332). The acts and practices complained of occurred in whole or part in the Southern District of New York.

- family corporation of William T. Piper, who is presently Chairman of its Board of Directors and his son, William T. Piper. Jr., is presently President of Piper; that Piper is a pionear and leader in the field of light aircraft. That the Piper family has retained control over Piper over the years by cumulative voting and by the confidence of its stockholders; that its annual meeting for the election of directors was heretofore scheduled for Pebruary 4, 1969.
 - 8. That in and about the early part of January, 1969, or prior thereto, defendant Chris-Craft acquired same 200,500 shares of Piper; that Chris-Craft, intenling and timing a raid on Piper stock with a view, among other things, to gain control over Piper at the annual meeting scheduled to be held on Pebruary 4, 1969, released the news of its said acquisition on or about January 20, 1969 and it made a tender offer for 300,000 shares of Piper at \$65.00 per share; that said tender offer was conditioned upon Piper stockholders executing a proxy to Chris-Craft for the election of directors at the forthcoming Piper annual meeting, scheduled for February 4, 1969.
 - 9. That thereupon and thereafter Piper shares which were selling on the NYSE, prior to Chris-Craft's tender offer at market prices of less than \$55.00 per share jumped to slightly less than the Chris-Craft'tender offer of \$65.00 per share.

 That Piper, prior to the time of the acts and practices complaine of, has traded on the NYSE at prices in excess of \$70.00 per share.

- of them, with knowledge and participation of all, by letters sent to stockholders and press releases in the public press, wrongfullysought to induce plaintiff and other stockholders of Piper not to sell their Piper shares to Chris-Craft, and instead to execute proxics to Piper management's nominees, which they solicited for the reason as they stated that Chris-Craft's tender offer is "inadequate and not in the best interests of Piper stockholders"; but they omitted to state what would be an adequate offer, and they emitted to state that their sole objective was to prevent Chris-Craft from electing directors. to replace the individual defendants or some of them at Piper's said annual meeting to be held February 4, 1969 and to so perpetuate themselves in office.
- ll. That thereupon and thereafter the individual defendants continued to solicit proxies for the Piper annual meeting of February 4, 1969 for the purpose and with the intent to defeat the attempt of Chris-Craft to elect one or more directors of Piper at said annual meeting of Piper.
- of their plan and scheme to perpetuate or insure their control of Piper and their election to the Piper Board of Directors at Piper's said annual meeting scheduled for February 4, 1969, and to defeat and prevent defendant Chris-Craft from electing directors of Piper, or gaining control of Piper's Board of Directors at said annual meeting, the said individual defendants conspired with the defendant Grumman to sell Grumman an offsetting block and identical number of 300,000 shares of Piper, from Piper's treasury stock, at the identical price of \$65.00 per share, and defendants, except Chris-Craft, in furtherance of

such conspiracy, procured such salo to be approved by the Grumman and Piper Boards of Directors, on or about January 30, 1969.

- Chris-Craft, to issue 300,000 shares of Piper Treasury stock to defendant Grunman at \$65.00 per share, was for less than their value and the same was purposed solely to counteract the Chris-Craft objectives, and to retain control in and over Piper by the individual defendants, upon an understanding with defendant Grumman that Grumman would vote such stock for Piper's management and perpetuate the individual defendants, or their designees, as directors and officers of Piper and dilute, depreciate, and hold down the value of Piper stock, to the loss and damage of Piper and its stockholders.
 - 14. That said damage and loss to Piper, the plaintiff and other Piper stockholders was caused solely by the acts and practices of the defendants herein complained of and the defendants responsible should be required to account therefor.
 - 15. That the agreement to sell such 300,000 shares of Piper to defendant Grumman, at \$65.00 per share, was a manipulation of Piper stock for self-dealing purposes of the individual defendants and Grumman and is unenforceable by defendants.
 - on a Court of the United States jurisdiction of an action of which they would not otherwise have jurisdiction.
 - of Directors of Piper and/or Piper to bring action for the misconduct hore complained of, because such a demand would be futile. The said directors are the very individuals against whom complain

is made and who are defendants in this action, and to make demand upon them or against them would be tantamount to asking that they sue themselves. If any such action were brought by such directors, it could not and would not be offectively prescented.

- holders of Piper to bring action for the misconduct here complained of, because such a demand is unnecessary and is not required by law and it would be futile, (1) because under the charter and by-laws of Piper, the management of its affairs, including the bringing of suits, is entrusted to its Board of Directors and not to the stockholders; (2) stockholders of Piper cannot by resolution or otherwise require Piper or its stockholders to bring such an action; and (3) a stockholders' resolution demanding the bringing of such an action would be futile since control of the action would be in the hands of the very persons who are alleged to be the wrongdoers and cannot be properly prosecuted by them.
 - 19. That plaintiff has no adequate remedy at law.

SECOND COUNT

- 20. Plaintiff repeats and reitorates the allegations of paragraphs "1" to "19", both inclusive, as if now fully and at length set forth.
- 21. That plaintiff and the stockholders of Piper similarly situated who sustained loss and damage by the wrongful acts of the defendants as hereinabove set forth constitute a class so numerous that joinder of all members thereof would be impracticable; that there are questions of law and fact common to the class; that the claims of plaintiff as a representative party are typical of the claims of the class;

and the plaintiff as a representative party will fairly and adequately protect the interests of the class. The prosecution of separate actions by individual members of the class would create a risk of inconsistent or varying adjudications with respect to individual members of the class which would establish incompatible standards of conduct for the parties opposing the class. An adjudication of plaintiff's claims would as a practical matter be dispositive of the interests of other members not parties to such adjudication. The bringing of this action is the best method or medium for the fair and efficient adjudication of the controversy.

THIRD COUNT

- 22. Plaintiff repeats and roiterates the allegations of paragraphs "1" to "19", both inclusive, as if now fully and at length set forth.
- should be compelled to acquire the said 300,000 shares of Piper, which it agreed to purchase, at fair value; that such agreement which the defendant, except defendant Chris-Craft, conspired at for less than fair value should be enforced by decree of the Court upon terms and conditions ordered by the Court.

FOURTH COULT

- 24. Plainciff repeats and reiterates the allegations of paragraphs "1" to "13", both inclusive, and "16", "17", "18" and "19", as if now fully and at length set forth.
- 25. That defendant Chris-Craft's tender offer was calculated and timed for the purpose of controlling Piper's Board of Directors, or the Board of Directors to be elected at the annual meeting of Piper on February 4, 1969, with a view

of controlling Piper as a first and initial step to marga Piper into or with Chris-Craft in a self-dealing operation for less than fair value of Piper as an arm or subsidiary of a conglomorate in an unrelated business, contrary to the interests of Piper and the position taken by the anti-trust division of the United States Department of Justice in such transactions.

- 26. That defendant Chris-Craft furthermore failed and omitted, among other things, to clearly reveal its intended purpose as required by Section 14 of the Act and Rule 14a-15 of the SEC for the solicitation of proxies, on which said defendant tender offer was conditioned.
- . 27. That defendant Chris-Craft furthermore violated
 Sections 9 and 16 of the Act in that said defendant conspired
 with third parties to and it did conceal from Piper, its
 management and its stockholders, the acquisition by defendant
 Chris-Craft of at least 200,500 shares of Piper or the beneficial
 interest therein, which was a control interest in Piper.
- 28. What the election of directors of Piper; a public corporation, for the purpose intended by defendant Chris-Craft is illegal and should be set aside by the Court.
- 29. That the election of directors of Piper, directly or indirectly by Chris-Craft, by the acts and practices complaine of is illegal and should be set aside by the Court.
- any such Board of Directors elected by defendant Chris-Craft for the purpose, or in the manner complained of, should be ordered to require Chris-Craft to pay Piper and it: stockholders the fair value of Piper as an arm or subsidiary of Chris-Craft, as a conglomerate in a remote business.



- 31. Plaintiff repeats and reiterates the allegations of paragraphs "1" to "21", both inclusive, as if now fully and at length set forth.
- their plan and scheme to perpetuate themselves as officers and/or directors of Piper, or insure their continued control of Piper, and to defeat and prevent defendant Chris-Craft from gaining control of Piper, and to dilute the percentage of Piper's shares held by Chris-Craft and to increase the total number of Piper's shares that Chris-Craft would need to successfully merge Piper into or with Chris-Craft, and to defeat and prevent Chris-Craft from merging Piper into or with Chris-Craft, and in furtherance of the conspiracy hereinabove alleged, did wrongfully issue or transfer approximately 470,000 shares of Piper to the United States Concrete Pipe Company of Florida ("U.S. Concrete") and Southply, Inc. ("Southply"), or have agreed to do so.
- 33. That the issuance or transfer of such Piper shares to U.S. Concrete and Southply, or the agreement therefor, failed to comply with the rules of the NYSE; that defendants acted without stockholder approval; that the acts and practices of said defendants have caused the NYSE to suspend trading in all of Piper shares and have caused or may cause the delisting of Piper shares on the NYSE.
- 34. That the listing of Piper shares on the NYSE is a valuable property right of Piper and its stockholders.
- 35. That in addition thereto and as a result of defendants acts and practices complained of, the value of the shares of Piper held by plaintiff and other stockholders similarly situated has been or will be diluted, in that Piper

did not or will not receive fair value for the issuance or transfer of such shares to U.S. Concrete and Southply.

36. That by reason of the foregoing, said defendants have caused great and irreparable loss and damage to Piper, the plaintiff, and other stockholders of Piper similarly situated.

WHEREFORE, plaintiff prays judgment:

- (1) 'That the Court should declare and determine the rights and obligations of the defendants to Piper and its stockholders.
- (2) An injunction should be granted by the Court, restraining the enforcement of the agreement between Grumman and Piper for the purchase of the said 300,000 shares of Piper, at \$65.00 per share; and a take-over of Piper by or merger with Chris-Craft.
- (3) Defendant Grumman should be directed to pay fair value for the 300,000 shares of Piper it agreed to purchase and said agreement should otherwise be entorced by decree of the Court.
- (4) That defendants, jointly and severally, should be directed to account and pay to Piper and/or its stockholders all damages suffered by them, including profits derived by said defendants, directly and indirectly, as a result of the wrongful acts and self-dealing alleged in this complaint, in the amount of at least \$1,000,000.00 together with interest, punitive and exemplary damages as provided by law.
- (5) That the election of directors at the Annual Meeting of Piper on February 4, 1969 should be enjoined, or if

hild, vacated and set aside by the Court and a new election ordered under the direction of the Court and upon terms and conditions and voting as determined by the Court.

- (6) That plaintiff, on behalf of herself, and other stockholders of Piper, similarly situated, requests that this Court determine that the Second and Fifth Counts of this complaint be maintained as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure.
- (7) Granting plaintiff such other, further and different relief as to the Court seems just.
- (8) Awarding plaintiff reasonable attorneys' and accountants' fees and expenses, and the costs and disbursements of this action.

STULL & STULL Attorneys for Plaintiff

A Member of Office & P. O. Address

6 East 45th Street New York, New York 10017 687-7230

STATE OF NEW YORK)
SS.:
COUNTY OF NEW YORK)

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LILLIAN STULL duly sworn, deposes and says:

That deponent is the plaintiff in the within action; that deponent has read the foregoing complaint and knows the contents thereof; that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters deponent believes it to be true.

- Lillian Still

Sworn to before me this

7th day of April, 1969

Chary Public, State of How York

Chary Public, State of How York

Re 54-5764575

Resulted in Kings County

Charter Explicit Starch 50, 1970

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EXHIBIT "D" ANNEXED TO AFFIDAVIT OF PAUL G. PENNOYER, JR.

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

LILLIAN STULL,

v.

Plaintiff,

AMENDED AND SUPPLEMENTAL COMPLAINT

69 C1v. 440

. . .

NORMAN J. GREENE, WALTER C. JAMOUNEAU, CHARLES W. POOL, R. K. GRIFFIN, HOVARD PIPER, THOMAS F. PIPER, WILLIAM T. PIPER, JR., WILLIAM T. PIPER, GRUNMAN AIRCRAFT ENGINEERING CORPORATION and CHRIS-CRAFT INDUSTRIES, INC., and PIPER AIRCRAFT CORPORATION, and BANGOR PUNTA CORPORATION,

Defendants.

Plaintiff, for her amended and supplemental complaint, by STULL & STULL, her attorneys, alleges upon information and belief, except as to paragraphs "1" and "24", which are alleged on knowledge:

FIRST COURT

- 1. (a) That plaintiff is a stockholder of Piper

 Aircraft Corporation ("Piper") owning 150 shares of its common

 (voting) stock, which she purchased on the New York Stock

 Exchange ("NYSE"), a National Securities Exchange, as defined in

 and by the Securities Exchange Act of 1934 ("Act") in the City

 and County of New York; that plaintiff owned such shares prior

 to the acts and practices complained of.
- (b) That plaintiff brings this action representatively on her own behalf and on behalf of other stockholders of Piper similarly situated, and derivatively on behalf of Piper. Plaintiff is a citizen and resident of the State of Connecticut.
- 2. That Pipor is and at the time of the acts and practices complained of was a Pennsylvania corporation, doing business in the State of New York, and its stock was listed

and traded on the MYSE; that Piper is and for many years has been engaged in the manufacture and distribution of light aircraft.

- 3. That defendants Chris-Craft Industries, Inc.

 ("Chris-Craft") and Bangor Punta Corporation ("Eangor Punta") are
 Delaware corporations; that at the times complained of ChrisCraft's executive offices were in the City and County of New York;
 that both Chris-Craft and Bangor Punta engaged in multiple fields
 of business and were commonly known as conglomerates; that the
 shares of both were and are listed and traded on the NYSE.
- 4. That defendant Grumman Aircraft Engineering Corporation ("Grumman") is a New York corporation; that at the times complained of Grumman's executive offices were in Nassau County, State of New York; that it engaged in fields kindred to but non-competitive with Piper, and its stock was and is listed and traded on the NYSE.
- 5. That the individual defendants are or were at the times complained of directors and officers of Piper, and they and defendant Chris-Craft committed the acts of misconduct complained of and the individual defendants caused Piper to engaged in such acts and practices, in violation of Section 10(b) and 14(a) of the Act (15 USC 78j and n) and Rule 10b-5 and Regulation 14a-1, et seq. of the Securities and Exchange Commission ("SEC") (17 CPR 240. 10b-5 and 14a-1 et seq or are chargeable therewith; that defendants Grumman and Emgor Punta aided and abetted the acts and practices of the individual defendants complained of; that defendants are citizens of States other than Connecticut.

- 6. That the jurisdiction of this Court is founded on Section 27 of the Act (15 USC 78aa) and on diversity of citizenship and amount involved exceeding \$10,000.00 (28 USC 1332). The acts and practices complained of occurred in whole or part in the Southern District of New York.
- a "family" corporation, so called, of William T. Piper, who was Chairman of its Board of Directors; and his son William T. Piper, Jr., was its President. That Piper is a pioneer and leader in the field of light aircraft. That the Piper family has retained control over and dominated Piper over the years by cumulative voting and by the confidence of its stockholders. That its annual meeting for the election of directors was heretofore scheduled for February 4, 1969, with the management slate of directors composed of members of the Piper family and their nominees. That any change in the Board of Directors and officers of Piper since the acts and practices complained of result from the misconducts complained of.
- 8. That in and about the early part of January, 1969, or prior thereto, defendant Chris-Craft acquired some 200,500 shares of Piper, which was in excess of 10% of Piper's common stock. Seeking to gain control of Piper's Board of Directors at the annual meeting scheduled to be held on Pebruary 4, 1969, and thereafter to merge Piper with Chris-Craft, Chris-Oraft released the news of its said acquisition on or about January 20, 1969, and it made a tender offer for 300,000 additional shares of Piper at \$65.00 per share; that said tender offer was conditioned upon Piper stockholders executing a proxy to Chris-Craft for the election of directors at the forthcoming Piper annual meeting.

- 9. That thereupon and thereafter share share shich were selling on the NYSE, prior to Chris-Craft's tender of the state market prices of less than \$55.00 per share jumped to slightly less than the Chris-Craft tender offer of \$65.00 per share. That Piper, prior to the time of the acts and practices complained of has traded on the NYSE at prices in excess of \$70.00 per share; and the true value of its shares was and is in excess of \$100.00 per share, as defendants know or should know.
- defendants, being the officers and directors of Piper and in control of Piper, fearing that they would lose control of Piper and its Board of Directors, and seeking to prevent Chris-Craft from acquiring shares and proxies of and from Piper shareholders, which Chris-Craft needed to control the Board of Directors of Piper and/or to combine or merge Piper with Chris-Craft, embarked upon a plan, scheme, and conspiracy to perpetuate and insure their control over Piper and its Board of Directors, and to prevent Chris-Craft from electing directors, as was Chris-Craft's purpose to do, at the annual meeting of Piper on February 4, 1969, and from otherwise gaining control of Piper.
- in and about January, 1969, and since, by use of the means or instrumentality of interstate commerce, or of the mails, or the facilities of the NYSE, the individual defondants made untrue and unclear statements of material facts and omitted to clearly state material facts necessary in order to make the statements they made, in light of the circumstances under which they were made, not misleading in connection with the purchases and sale of Piper shares, and the solicitation of prexies for the aforesaid annual meeting of Piper.

12. That among other things, the said individual defendants, at the cost and expense of Piper in excess of \$10,000.00, wrongfully advised and solicited, and sought to and did wrongfully induce plaintiff and other stockholders of Piper not to sell their Piper shares to Chris-Craft and instead, to retain their shares and execute proxies for said annual meeting in favor of management's slate, upon the re resentations, among others, that Chris-Craft's tender offer was "inadequate" and not in the best interests of Piper stockholders; that "NOT ONE OF YOUR BOARD OF DIRECTORS OR MANAGEMENT WILL TENDER HIS SHARES", which defendants emphasized to induce stockholders of Piper to follow the alleged lead of the Board of Directors and Management and they misleadingly implied that all members of the Board of Directors and Management held shares, which was untrue; and they impliedly represented that "Piper stock is worth substantially more than it /Chris-Craft 15 offering". Said individual defendants in order to and they did delay the purchase and sale of Piper shares by and misled Piper shareholders and they artificially influenced the market in Piper shares, by omitting to state any basis for such representation of inadequacy, and whether they or Piper had procured an independent evaluation and by whom, and what would be an adequate offer; that their true and sole objective was to perpetuate their domination and control of Piper, continue themselves in office and prevent Chris-Craft from electing directors to replace the individual defendants, or some of them, as Piper directors, at Piper's maid annual meeting to be held Pebruary 4, 1969, and from gaining control of the Piper Board of Directors and/or combining or merging Piper with Chris-Craft; and they omitted to state that the alleged inadequacy of Chris-Craft's offer to Piper shareholders was not, in truth and fact, the reason they advised Piper shareholders not to sell their Piper shares to Chris-Craft.

13. That furthermore, to accomplish their said plan and scheme, the said individual defendants delayed and misled Piper shareholders and artificially influenced the market in Piper shares by wrongfully conspiring with the defendant Grumman to and they did cause Piper to sell Grunnan an off-setting block and identical number of 300,000 shares of Piper, from Piper's unissued or treasury stock, at the identical price of \$65.00 per share offered by Chris-Craft and said defendants procured said sale to Grumman to be approved by the Grumman and Piper Boards of Directors, on or about January 30, 1969. That furthermore said defendants wrongfully omitted to fully and fairly disclose the terms of such transaction to Piper shareholders while advising and since maintaining to Piper shareholders, and in soliciting their proxies, that Chris-Craft's tender offer was "inadequate" all to the loss and damage to Piper and its shareholders, was said defendants well knew or should have known.

Craft and Bangor Punta, failed to disclose to Piper shareholders that said sale of 300,000 Piper shares to Grumman was part and parcel of an agreement or understanding between the individual defendants and Grumman which provided or contemplated, among other things, an exchange of shares by Piper shareholders for and a combination, consolidation, or merger of Piper with Grumman, or which otherwise would continue, perpetuate, and insure the domination and control of Piper's Board of Directors and officers by the individual defendants, and Grumman undertook and agreed to aid the individual defendants is blocking the purchaseof Piper shares by Christant, and to artificially depress the market in Piper shares, and to sell such offsetting block of Piper shares to Grumman at an in-adequate price, and they did within the intendment of the Act.

15. That following and as a result of the institution of the instant action, the said individual defendants

terminated, prior to settlement and closing of the aforesaid sale of said off-setting block of 300,000 shares of Piper's unissued or treasury stock to defendant Grumman at \$65.00 per share and they wrongfully purported to excuse. Grumman of and from the obligations of Grumman, and misconduct, without the knowledge and approval of Piper shareholders, to the further damage of Piper and its shareholders, as said individual defendants well knew or should have known.

16. That meanwhile, in furtherance of their aforementioned plan and scheme and to wrongfully increase the total number of Piper shares that Chris-Craft would need to successfully combine or merge Piper into or with Chris-Craft and to defeat and prevent Chris-Craft from combining or merging Piper with Chris-Craft and to dilute the percentage of Piper shares held by Chris-Craft, as well as the percentage of other Piper shareholders who might independently vote their Piper shares for Chris-Craft, or otherwise, the individual defendants caused Piper to replace their transaction in Piper shares with Grumman by an acquisition they caused Piper to make or agree to make with the United States Concrete Pipe Company of Florida ("U.S. Concrete") for all of its shares, and with Southply, Inc. ("Southply") for 99% of its shares, and they wrongfully agreed to issue or transfer approximately 470,000 shares of Piper to U.S. Concrete and Southply in consideration therefor, without the knowledge and approval of the NYSE and Piper shareholders, and they did. That such acquisition or transaction was accomplished without making a full, true and reasonable independent evaluation of the same, but instead said defendants wrongfully considered their need to defeat the Chris-Craft plans, to take over Piper, alone. That stockholder approval of such acquisition was required by the Rules of the NYSE.

17. That the sale and issuance or transfer of approximately 470,000 shares of Piper to U.S. Concrete and Southply, or the agreement therefor, additionally failed to comply with the rules of the NYSE; that the individual defendants and those responsible therefor caused the NYSE to suspend all trading in Piper shares on or about April 3, 1969 to the damage of Piper and its shareholders of the valuable property right of Piper and its shareholders to trade on the NYSE and the credit and image of Piper was also impaired and damaged thereby; that said suspension was lifted more than two weeks thereafter when it was publicly announced that the sale or transfer of Piper shares to and the acquisition by Piper of U.S. Concrete and Southply was somehow rescinded, likewise without the knowledge and consent of Piper shareholders, all to the further loss and damage of Piper and its shareholders. That said defendants and those responsible therefor artificially affected and depressed the market in Piper shares on the NYSE during that entire period in that trading in Piper securities was and remained suspended, and indeed the NYSE had referred defendants' misconduct to the SEC for the purpose of delisting Piper shares altogether, to Piper's damage.

aforesaid conspiracy and almost simultaneously with the termination or rescission of the aforesaid acquisition of U.S. Concrete and Southply by Piper, the individual defendants sold or agreed to the sale of their own shares and shares they controlled in Piper, constituting approximately 30% of the common stock of Piper to the defendant Bangor Punta Corporation ("Bangor Punta"), as a first step in a wrongful and self-dealing agreement for a consolidation or mergor of Piper with Bangor Punta for an inadequate consideration; that the individual defendants also

caused Piper to make an agreement to combine or merge Piper with Danger Punta in face of one of their carlier denouncements (in opposing Chris-Craft's tender offer referred to in paragraph "8" hereof) in the public press, made by or through the defendant William T. Piper, Jr., President of Piper, that Piper did not have any interest in Chris-Craft's move and that "we aren't interested in any mergers or associations or anything like this".

- in paragraph "18" hereof and the consolidation or merger of Piper with Bangor Punta, is additionally wrongful in that it is purposed to perpetuate the individual defendants in control of Piper and to continue them as officers and directors of Piper to continue to receive the benefits and emoluments of their offices and to dominate and control the management of Piper and prevent Chris-Craft from electing directors to replace the individual defendants as directors and officers of Piper and acquire Piper by an exchange of shares, consolidation and merger of Piper with Chris-Craft, to all of which Bangor Punta agreed.
- by Grumman and Banger Punta, in furtherance of their said plan and scheme in which Grumman and Banger Punta joined and participated, wrongfully manipulated the shares of Piper, in connection with the sale of Piper shares to and consolidating and merger agreements made first with Grumman, then with U.S. Concrete and Southply and then with Banger Punta, all for their self-interest and self-dealing purposes, in fraud and deceit of Piper and its shareholders, and they impaired and depressed the market in Pipe shares for their own profit, and agreed to sell same to Grumman and then to Banger Punta at inadequate prices, and they wasted a misappropriated the assets of Piper, diluted the value of its shares in and by the purchase and sale agreements aforementions:

violated their fiduciary obligations and duties to Piper and its shareholders.

21. That the proxy materials of the said inciwidual defendants, were wrongfully purposed to induce the plaintiff and other shareholders of Piper not to sell their Piper shares to Chris-Craft, and instead to execute proxies to the Piper management's nominees, which defendants continued to solicit in pursuance of their aforementioned plan and scheme to perpetuate and insure their control of Piper and their election to the Piper Board of Directors at Piper's said annual meeting scheduled for February 4, 1969, and to defeat and prevent defendant Chris-Craft from electing directors of Piper and gaining control of Piper's Board of Directors at said annual meeting and since, and to defeat and prevent Chris-Craft from combining, consolidating or merging Piper with Chris-Craft; that the investment agreement and sale of 300,000 shares of Piper unissued or treasury shares to Grumman at \$65.00 per share, was for less than their value and was purposed solely to counteract the Chris-Craft objectives and retain control in and over Piper by the individual defendants, upon an understanding with defendant Grumman that Grumman would vote such stock for Piper's management and perpetuate the individual defendants, or their designees, as directors and officers of Piper and dilute, depreciate and hold down the value of Piper shares; that the investment agreement and sale of approximately 470,000 shares of Piper to U.S. Concrete and Southply upon the acquisition of U.S. Concrete and Southply by Piper, was for less than the true value of such Piper shares and was purposed solely to counteract the Chris-Craft objectives and retain control in and over Piper

by the individual defendants, upon an understanding with the defendants U.S. Concrete and Southply that the recipients of such Piper shares would vote such stock for Piper's management and perpetuate the individual defendants, or their designees, as directors and officers of Piper and dilute, depreciate and hold down the value of Piper shares; that the agreement and sale of the shares of Piper ewned or controlled by the individual defendants to Bangor Punta was purposed solely to counteract and defeat the Chris-Craft objectives for the sole benefit of the individual defendants, and to sell out Piper to Banger Punta at a wholly inadequate price and one that defendants would not consider had they not been hard pressed by Chris-Craft's wholly inadequate proposals; that the wrongful and wholly selfish and self-dealing acts and practices of the defendants have caused loss and damage to Piper and its shareholders, the amounts of which can only be determined by this action.

- defendants, and of Grumman and Bangor Punta, aforementioned, were purposed to deceive and defraud Piper and its shareholders and Piper and its shareholders were defrauded and damaged thereby.
- 23. That said damage and loss to Piper, the plaintiff and other Piper sharoholders was caused solely by the acts and practices of the defendants and the defendants responsible should be required to account therefor.
- 24. That this action is not a collusive one to confer on a Court of the United States jurisdiction of an action of which it would not otherwise have jurisdiction.
- 25. That plaintiff has made no demand upon the Board of Directors of Piper and/or Piper to bring action for the misconduct here complained of, because such a demand would be

futile. The said directors are the very individuals against whom complaint is made and who are defendants in this action, and to make demand upon them or against them would be tantamount to asking that they sue themselves. If any such action were brought by such directors, it could not and would not be effectively prosecuted.

stockholders of Piper to bring action for the misconduct here complained of, because such a demand is unnecessary and is not required by law and it would be futile, (1) because under the charter and by-laws of Piper, the management of its affairs, including the bringing of suits, is entrusted to its Board of Directors and not to the stockholders; (2) stockholders of Piper cannot by resolution or otherwise require Piper or its stockholders to bring such an action; and (3) a stockholders' resolution demanding the bringing of such an action would be futile since control of the action would be in the hands of the very persons who are alleged to be the wrongdoers and cannot be properly prosecuted by them.

27. That plaintiff has no adequate remedy at law.

SECOND COUNT

- 28. Plaintiff repeats and reiterates the allegations of paragraphs:"1" to "27", inclusive, as if now fully and at length set forth.
- Orumman at \$65.00 per share was grossly and unconscionably inadequate; and Grumman well knew or should have known that such amount was grossly and unconscionably inadequate.

- 20. That the agreement of Bangor Punta to acquired Piper by exchange of shares, by consolidation or merger, or otherwise, contemplates payment by Bangor Punta to Piper's share-holders of approximately \$80.00 per share; that such amount is grossly and unconscionably inadequate; and Bangor Punta well knew or should have known that such amount was grossly and unconscionably inadequate.
- Grumman and/or Bangor Punta should be compelled to pay fair value for the shares of Piper; that the agreements between Piper and/or the individual defendants with Grumman and/or Bangor Punta, purposed to enable Grumman and/or Bangor Punta to acquire Piper and/or the Piper shares of and from Piper shareholders for loss than fair value should be enjoined by order of the Court, and said defendants required to pay fair value to Piper and/or its share holders; that in the alternative, the damages of Piper and its shareholders as a result of the misconduct in which Grumman and Bangor Punta aided and abetted the individual defendants and in which they participated should be determined and judgment rendered in accordance with such determination.

THIRD COUNT

- 32. Plaintiff repeats and reiterates the allegations of paragraphs "1" to "27", inclusive, as if now fully and at length set forth.
- 33. That at the time of Chris-Craft's tender offer, Chris-Craft well knew or should have known that the market price of the shares of Piper was depressed and furthermore that its tender offer for Piper shares was unconscionably because below their true value.

chicalities in the for the purpose of taking over and controllic.

First of livestors or the Board of Directors to be

elected in the first of Piper on Pebruary 4, 1969, with

First line Piper as a first and initial step to merge

First line of chris-Craft at less than the fair value of

Piper, at an or subsidiary of a conglomerate in an unrelated

tucinest. Fintrary to the interests of Piper and its shareholders.

35. That the defendant Chris-Craft's bender offer valuated to vote the shares of Piper to be acquired under virtue of such tender offer without payment and without christicated that Chris-Craft intended not to pay therefor prior to characterist's voting such shares so tendered at the said annual continuous of Piper on February 4, 1969; that Chris-Craft failed critical to clearly disclose to Piper shareholders that it continuous pay for the shares tendered until after it voted the continuous pay for the shares tendered until after it voted the continuous pay for the shares tendered until after it voted the continuous pay for the shares tendered until after it voted the continuous pay for the shares tendered until after it voted the continuous pay for the shares tendered until after it voted the continuous pay for the shares tendered until after it voted the continuous provides at said annual meeting; that the omission of continuous provides at a continuous provides and it was chris-Craft's purpose the continuous pay for the success of such tender offer before and without the continuous provides they would not be paid prior to the said annual meeting of Piper.

36. That the omission of Chris-Craft to clearly reveal that it would not pay Piper shareholders for shares shares at the annual meeting of Piper scheduled to be an on Pebruary 4, 1969; that Piper shares were worth far excess of Chris-Craft's tender offer; and that the invertee, undisclosed and sole purpose of such Chris-Craft tender

offer was to oust Piper management and consolidate or morge Piper with Chris-Craft, constitute the vilful violation of Sections 10(b) and 14(a) of the Act and Rule 10b-5 and Regulation 14a-1, et neg of the SEC for the solicitation of Piper shares and proxies on which defendant's tender offer was conditioned. Moreover, some or all shareholders of Piper would not have accepted Chris-Craft's tender offer and given Chris-Craft proxies for the annual stockholders meeting of February 4, 1969 had they known of Chris-Craft's purposes to vote their shares of Piper for Chris-Craft's purposes before Chris-Craft paid for the same.

- 37. That Chris-Craft's tender offer referred to in paragraph "8", above, was grossly and unconscionably inadequate and was purposed to acquire Piper and to merge and consolidate Piper with Chris-Craft at a cost to Chris-Craft of not more than \$65.00 per share or its equivalent, which Chris-Craft failed to reveal to Pipar shareholders in such tender offer and in its solicitation of proxies; that by a second tender offer, Chris-Craft has since that time (but prior to the proposal of the individual defendants, conspiring with Bangor Punta to block, the plans of Chris-Craft), proposed to consolidate or marge Piper with Chris-Craft on the basis of an exchange of shares and warrants to purchase the new Chris-Craft stock (i.e., Chris-Craft stock subsequent to merger of Piper) which was again grossly and unconsciously inadequate and of little value, if any, above Chris-Craft's aforesaid tender offer of \$65.00 per share and which may well be less than Chris-Craft's first said tender . m220
 - 38. That since the institution of the instant action, and since its proposal to exchange Piper shares for Chris-Craft shares and warrants, as alloged in paragraph "37", above, Chris-

craft has increased its second offer by \$10.00 per share, but it did so in manner purposed to confuse and mislead Piper share-holders, to conceal prior inadequacy, and said Chris-Craft offer yet remains unconscionably and crossly inacequate.

- shareholders under its above mentioned second tenders by Piper shareholders under its above mentioned second tender offer. Chris-Craft advertised in the public press that it would pay tendering Piper shareholders interest at the rate of \$5.36 per annum to the "Effective Date of Exchange", on each share of Piper tendered, but it emitted to say on what amount it would pay interest. Moreover, Chris-Craft emitted to clearly disclose that it was not obligated to pay any interest whatsoever, however long it might postpone the "Effective Date of Exchange", if it transpired that "a minimum of 80,000 shares of Piper, specified in said second tender offer, are not tendered.
- 40. Furthermore, in said adverticement of May 21, 1969, Chris-Craft omitted to clearly disclose that if Piper shareholders tendered loss than "a minimum of 80,000" shares of Piper, Chris-Craft, at its option, could accept such lessor number of shares, in which event, Piper shareholders who thus tendered their shares to Chris-Craft would be placed at disadvantage in the event of an offer from Banger Punta, or others, superior to that of Chris-Craft, or in the event the market price exceeded the Chris-Craft tender offer.
- 41. That meanwhile and on or about May 9, 1969, to preface, or fortify and further the success of Chris-Craft's second tender offer, Chris-Craft nanounced in the public press that "Chris-Craft's legal counsel considers the announcement of the Piper-Banger Punta agreement and any merger attempt?" in violation of the Pederal securities statues of the process of Chris-Craft's and

Becurities and Exchange Commission rules. ", which was an improper, wrongful and purposed method of inducing the tender of Piper shares to Chris-Craft until such alleged announcement had actually been declared to be such a violation by due process, the Securities and Exchange Commission, or adjudicated to that effect.

- 42. That defendant Chris-Craft has purchased Piper shares from Piper shareholders at grossly and unconscionably inadequate prices.
- 43. That defendant Chris-Craft furthermore violated Sections 9 and 16 of the Act in that said defendant conspired with third parties to and it did conceal from Piper, its management and its stockholders, the acquisition by defendant Chris-Craft of at least 200,500 shares of Piper or the beneficial interest therein, which was a control interest in Piper.
- 44. That by the acts and practices of Chris-Craft aforementioned, Chris-Craft procured the election of one or more directors at the Piper annual meeting of Pebruary 4, 1969; that such election is illegal and should be set aside by the Court.
- 45. That Chris-Craft has procured a list of stockholders of Piper by violation of law and its solicitation of shares
 and proxies by reason of such violation of law has caused great
 damage to Piper and its shareholders and has enabled Chris-Craft
 to purchase Piper shares from Piper shareholders at grossly and
 unconscionably inadequate prices and Chris-Craft continues to do so
- 46. That by reason of the foregoing, Chris-Craft should be directed and compelled to pay Piper and its sharsholders the fair value of Piper shares acquired and to be acquired by Chris-Craft and to pay Piper and its sharsholders all damages and losses sustained by them as a result of the matters above set forth.

FOURTH COUNT

47. Plaintiff repeats and reitprates the allogations

of paragraphs "1" to "45", both inclusive, as if fully and at longth set forth.

- 48. That plaintiff and the stockholders of Piper similarly situated who sustained loss and damage by the wrongful acts of the defondants as horoinabove set forth constitute a class so numerous that joinder of all members theroof would be impracticable; that there are questions of law and fact common to the class; that the claims of plaintiff as a representative party are typical of the claims of the class; and the plaintiff as a representative party will fairly and adequately protect the interests of the class. The prosecution of separate actions by individual members of the class would create a risk of inconsistent or varying adjudications with respect to individual members of the class which would ostablish incompatible standards of conduct for the parties opposing the class. An adjudication of plaintiff's claims would as a practical matter be dispositive of the interests of other members not parties to such adjudication. The bringing of this action is the best method or medium for the fair and efficient adjudication of the controversy.
- 49. That as a result of the acts and practices complained of defendant Chris-Craft has purchased Piper shares from Piper's shareholders at grossly and unconscionably inadequate prices, and it continues and intends to continue to do so.
- 50. That while Chris-Craft's take-over bid for Piper has been and remains grossly and unconscionably inadequate, and in violation of law, Eangor Punta has announced, likewise in the public press, and wilfully to misical Piper shareholders, that

ATIV blockers errors and a contract

^{**}Bangor Punta soid the securities package it will offer for chares hold outside the family is worth, in the judgment of First Boston Corp., not less than \$80 per Piper share. The Piper

fr ly will receive 'no more 'er-share' than other holders are offered, D. gor Punta said."

- 51. That Bangor Punta likowino intends to buy Piper shares of and from Piper shareholders at grossly and unconscionably inadequate prices., or wrongfully merge Piper into Bangor Puntably inadequate prices.
- 52. That plaintiff was a shareholder of Piper at all the times of the acts and practices complained of.
- plained of Piper shares were and are reasonably worth in excess of the amounts which defendants Chris-Traft and Bangor Punta have offered or intend to offer Piper shareholders; that said Piper shares were and are reasonably worth in excess of \$100 per shares.

WHEREFORE, plaintiff prays judgment:

- (1) That the Court should declare and determine the rights and obligations of the defendants to Piper and its stockholders, and defendants' acts to be in violation of law.
- (2) An injunction should be granted by the Court restraining the enforcement of any and all agreements between or among the defendants which purport to sell or exchange Piper shares for the shares of any defendant, or combine, or consolidator merge Piper with any defendant at less than fair value of Piper's shares as determined by the Court.
- (3) That an injunction should be granted restraining a take-over of Piper by or merger with Chris-Craft.
- (4) That any take-over by or merger of Piper with Bangor Punta should also be restrained except for fair value to Piper and its shareholders, and payment of their damages.
 - (5) That defendants, jointly and severally, should

be directed account and pay to piper ind/or its stockholders all damages suffered by them, including profits derived by said defendants, directly and indirectly, as a result of the wrongful acts and self-dealing alleged in this complaint, together with interest, punitive and exemplary damages as provided by law.

- (6) That the agreement of Grumman to purchase 300,000 shar of Piper should be enforced, but at fair value; that in the alternative, the damages of Piper and its shareholders resulting from such transaction should be determined by the Court.
- (7) That the election of directors at the Annual Meeting of Piper on February 4, 1969 should be enjoined, or if held, vacated and set aside by the Court and a new election ordered under the direction of the Court and upon terms and conditions and voting as determined by the Court, and the proxies of management and Chris-Craft declared null and void.
- (8) That plaintiff, on behalf of herself, and other stockholders of Piper, similarly situated, requests that this Court determine that the Fourth Count of this complaint be maintained as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure.
- (9) Granting plaintiff such other, further and different relief as to the Court seems just.
- (10) Awarding plaintiff reasonable attorneys' and accountants' fees and expenses, and the costs and disbursements of this action.

Attornoys for Plaintiff

A Member of the Firm
Office & P. O. Address
6 East 45th Stroot
Now York, New York 10017

COURTY OF NEW YORKS

LILLIA: STULL, being duly sworn, deposes and says:

That deponent is the plaintiff in the within action; that deponent has read the foregoing amended and supplemental complaint and knows the contents thereof; that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters deponent believes it to be true.

Sworn to before me this

day of May, 1969

GWENDOLYN A. CONNELLY
Notary Public, State of New York
10. 24-5734-675
Qualified in Kings County
Commission Expires March 30, 1950

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

LILLIAN STULL,

Plaintiff,

AMENDED AND SUPPLEMENTAL COMPLAINT

NORMAN J. GREENE, WALTER C. JAMOUNIAU, CHARLES W. POOL, R. K. GRIFFIN, HOWARD PIPER, THOMAS F. PIPER, WILLIAM T. PIPER, JR., and WILLIAM T. PIPER, JR., and WILLIAM HOWARD PIPER, as EXECUTORS OF THE ESTATE OF WILLIAM T. PIPER, DECEASED, GRUMMAN AIRCRAFT ENGINEERING CORPORATION, CHRIS-CRAFT INDUSTRIES, INC., PIPER AIRCRAFT CORPORATION, and BANGOR PUNTA CORPOPATION,

Defendants.

FOURTH COUNT - CLASS ACTION

69 Civ. 440

Plaintiff, for her fourth amended and second supplemental complaint, by STULL & STULL, her attorneys, alleges upon information and belief, except as to paragraphs "1", "6" and "27", which are alleged on knowledge:

FIRST COUNT

- 1. (a) That plaintiff is a stockholder of Piper Aircraft Corporation ("Piper") owning 150 shares of its common (voting) stock, which she purchased on the New York Stock Exchange ("NYSE"), a National Securities Exchange, as defined in and by the Securities Exchange Act of 1934 ("Exchange Act") in the City and County of New York; that plaintiff owned such shares prior to the acts and practices complained of.
- (b) That plaintiff brings this action representatively on her own behalf and on behalf of other stockholders of Piper similarly situated, and derivatively on

behalf of Piper. Plaintiff is a citizen and resident of the State of Connecticut.

- 2. That Piper is and at the times of the acts and practices complained of was a Pennsylvania corporation, doing business in the State of New York, and its stock was listed and traded on the NYSE; that Piper is and for many years has been engaged in the manufacture and distribution of light aircraft.
- 3. That defendants Chris-Craft Industries, Inc.

 ("Chris-Craft") and Bangor Punta Corporation ("Bangor Punta") are

 Delaware corporations; that at the times complained of Chris
 Craft's executive offices were in the City and County of New York;

 that both Chris-Craft and Bangor Punta engaged in multiple fields

 of business and were commonly known as conglomerates; that the

 shares of both were and are listed and traded on the NYSE.
- 4. That defendant Grumman Aircraft Engineering Corporation ("Grumman") is a New York corporation; that at the times
 complaint of Grumman's executive offices were in Nassau County,
 State of New York; that it engaged in fields kindred to but noncompetitive with Piper, and its stock was and is listed and traded
 on the NYSE.
- 5. That the individual defendants are or were at the 1/
 times complained of directors and officers of Piper, and they
 and defendants Chris-Craft, Grumman and Bangor Purta committed the
 acts of misconduct complained of and the individual defendants
 caused Piper to engage in such acts and practices, in violation of
 Sections 5 and 11 of the Securities Act of 1933 (15 USC 77e and k)
 ("Securities Act") and Rule 135 of the Rules and Regulations of
 the Securities and Exchange Commission ("SEC") relating thereto,
 and Sections 10(b), 14(a) and 16 of the Exchange Act (15 USC 78j,
 n and p) and Rules 10b-5 and 10b-6 and Regulation 14a-1, et seq.

^{1/} William T. Piper, Jr., Thomas F. Piper and Howard Piper are the Executors of the Estate of William T. Piper, deceased, one of the individual defendants, who died since the commencement of this action.

and 16a-1, et sed. of the SEC (17 CPR 240. 10b-5, 10b-6 and 14a-1, et seq.), among others, or are chargeable therewith. Defendants Grumman and Bangor Punta aided and abetted or participated in the acts and practices of the individual defendants complained of. Defendants are citizens of States other than Connecticut.

- 6. That the jurisdiction of this Court is founded on Section 22 of the Securities Act (15 USC 77v) and Section 27 of the Exchange Act (15 USC 78aa) and on diversity of citizenship and amount involved exceeding \$10,000.00 (28 USC 1332). The acts and practices complained of occurred in whole or part in the Southern District of New York.
- "Tamily" corporation, so called, of William T. Piper, now deceased, who was Chairman of its Board of Directors, and his son William T. Piper, Jr., was its Precident. That Piper was 3 pioneer and leader In the field of light sireraft. That the Piper family had retained control over and dominated Piper over the years by cumulative voting and by the confidence of its stockholders. That its annual meeting for the election of directors was heretofore scheduled for February 4, 1969, with the management slate of directors composed of members of the Piper family and their nominees. That any change in the Board of Directors and officers of Piper since the acts and practices complained of result from the misconducts complained of.
- 8. That in and about the early part of January, 1969, or prior thereto, defendant Chris-Craft acquired some 200,500 shares of Piper, which was in excess of 10% of Piper's common stock. Seeking to gain control of Piper's Hoard of Directors at the annual meeting scheduled to be held on February 4, 1969, and thereafter to merge Piper with Chris-Craft, Chris-Craft released the news of

its said acquisition on or about January 23, 1969, and It made a tender offer for 300,000 additional chares of Piper at \$65.00 per share; that said tender offer was conditioned upon Piper stockholders executing a proxy to Chris-Craft for the election of directors at the forthcoming Piper annual meeting.

- 9. That thereupon and thereafter Piper shares which were selling on the NYSF, prior to Chris-Craft's tender offer at market prices of less than \$55.00 per share jumped to slightly less than the Chris-Craft tender offer of \$65.00 per share. Piper prior to the time of the acts and practices complained of had traded on the NYSE at prices in excess of \$70.00 per share. Plaintiff and other shareholders were led to believe, by the acts practices herein complained of, that the true value of Piper shares was in excess of \$100.00.
- That therefore and thereafter, the individual describent, being the collection of High and in the thirt, remains that the same loss certical of Piper and its heard of Highestore, and suching to prevent Chris-Craft from acquiring manner, and proxim of and From Piper shareholders, which Chris-Craft needed to contect the Poard of Directors of Piper and/or to contine or renge Piper with Chris-Craft, embarked upon a plan, scheme and conspirately to perpetuate and insure their described over Piper and its mound of Firestore, and to prevent Chris-Craft from electing directors, so was Chris-Craft's purpose to do, at the annual recting of Fiper on February 4, 1969, and From otherwise galning control of Piper.
- 11. That in furtherance of such plan and scheme, in and about January, 1969, and since, by use of the means or instrumentality of interstate commerce, or of the agils, or the facilities of the NYSE, the individual defendance made and caused liper to make

untrue and unclear statements of material facts and omitted to clearly state mat erial facts necessary in order to make the statements they made, in light of the circumstances under which they were made, not misleading in connection with the purchase and sale of Piper shares, and the solicitation of proxies for the aforesaid annual meeting of Piper, and since; and the remaining defendants, except Chris-Craft, aided and atetted or participated in such acts.

- 12. (a) That among other things, said individual defordants, at the cost and expense of Piper in excess of \$10,000.00 aided and abetted by the defendants, except Chris-Craft, wrongfully advised, solicited and cought to and did wronrfully induce plaintiff and other stockholders of Piper not to sell their Piper shares to Chris-Craft and instead, to retain their shares and execute proxies for said annual meeting in favor of management's clate, upon representations, along others, that Chris-Craft's tender offer was "inadequate" and not in the best interests of Paper stackholders; that "NOT OME OF YOU boast OF DIRECTORS OR MANACEMENT WILL TENDER HIS SHARES", which defendants emphasized to induce stockholders of Piper to follow the alleged lead of the Board of Directors and Management and they risleadingly implied that all members of the Board of Directors and Fanagement held chares, which was untrue; and they impliedly represented that "Piper stock is worth substantially more than it [Chris-Craft] is offering". Said statements were made by use of the mails.
- (b) Said individual defendants in order to and they did delay the purchase and sale of Piper shares, and they misled Piper shareholders, and they artificially influenced the market in Piper shares, by omitting to state any basis for such representation of inadequacy, and whether they or Piper had procured an

independent evaluation and by whom, and what would be an adequate offer; that their true and sole objective was to perpetuate their domination and control of Piper, continue themselves in office and prevent Chris-Craft from electing directors to replace the individual defendants, or some of them, as Piper directors, at Piper's said annual meeting to be held February 4, 1969, and from gaining control of Piper Board of Directors and/or combining or merging Piper with Chris-Craft; and they omitted to state that the alleged inadequacy of Chris-Craft's offer to Piper shareholders was not, in truth and fact, the reason they advised Piper shareholders not to sell their Piper shares to Chris-Craft.

- 13. That furthermore, to accomplish their said plan and scheme, the said individual defendants delayed and misled Piper shareholders and artificially influenced the market in Fiper shares by wrongfully scheming with the defendant Crumman to and they ald cause Pip w to well Grussan an off-setting block and incomplete an ter of 300,000 correct of Piper, from Figer's unissued or treasury close, at the adoutters price of \$60.00 per share offered to he s-Craft and total of Ammanta procured said sale to Grumman to be approved by the Grumman and Piper Boards of Directors, on or about January 30, 1969. That furthermore said defendants vrongfully oritted to fully and fairly disclose the terms of such transaction to Piper shareholders while advising and since maintaining to Piper shareholders, and in soliciting their proxies, that Chris-Craft's tender effer was "inadequate" all to the loss and damage of Piper and its shareholders, as said defendants well knew or should have known.
- 14. That furthermore, the defendants, except Chris-Orest and Banger Punta, failed to disclose to Piper shareholders that said sale of 300,000 Piper shares to Grunnan was part and

parcel of an agreement or understanding between the individual defendants and Grumman which provided or contemplated, among other things, an exchange of shares by Piper shareholders for and a combination, consolidation, or merger of Piper with Grumman, or which otherwise would continue, perpetuate, and insure the domination and control of Piper's Board of Directors and officers by the individual defendants, and Grumman undertook and agreed to aid the individual defendants in blocking the purchase of Piper shares by Chris-Craft, and to artificially depress the market in Piper shares, and to sell such offsetting block of Piper shares to Grumman at an inadequate price, and they did within the prohibitions of the Exchange Act.

- 15. That following and as a result of the institution of the instant action, the said individual defendants failed to close the aforesaid sale of said offeetting block of 300,000 shares of Piper's unlessed or treasury stock to defendant Grumman at 265.00 for there are they promotelly purperted to excuse Grumman of and from the obligation of soundary, and reconduct, without the knowledge and approval of Piper shareholders, to the further damage of Piper and its chareholders, as said individual defendants well known a should have known.
- lb. That meanwhile, in furtherance of their aforementioned plan and scheme and to wrongfully Increase the total number of Piper shares that Chris-Craft would need to successfully combine or merge Piper into or with Chris-Craft and to defeat and prevent Chris-Craft from combining or merging Piper with Chris-Craft, as well as the percentage of other Piper shareholders who might independently vote their Piper shares for Chris-Craft, or otherwise, the individual defendants caused Piper to replace their transaction in Piper shares with Grumman by an acquisition they

caused Piper to make or agree to make with the United States

Concrete Pipe Company of Florida ("t.s. Concrete") for all of its

shares, and with Southply, inc. ("Southply") for 59% of its shares,
and they wrongfully agreed to issue or transfer approximately

470,000 shares of Piper to U.S. Concrete and Southply in consider
ation therefor, without the knowledge and approval of the HYSE

and Fiper shareholders, and they did. That such acquisition or

transaction was illegal and it was accomplished without making a

full, true, and reasonable independent evaluation of the same, but

inct end maid defendants prongfully considered their need to defeat

the Chris-Craft plans to take over Fiper, alone. That stockholder

approval of ruch acquisition was required by the Eules of the

NYCE.

17. That the sale on' issuance or trensfer of approxitely 470,000 shares of Piper to B. .. Concrete and Southply, or the sy cesent therefor, ad itlently delien to mayly with the ester of the "Cong to at the incition a ter minute and those "recognitie therefor extrem the Wild so suspend all trading in Fiper shares on or about April 3, 1969 to the damage of Piter and its shareholders of the valuable property right of Piper and its chareholders to trade on the MET and the credit and image of Piper was also impaired and damaged therety; that said sus-Spension to. lifted for then to weeks there flow when it was publicly announced that the sale or transfer of Piper shares to and the acquisition by Pire' of W.A. Temerate and Louthply was nomenow rescinted, likewise without the knowledge and consent of Piper shareholders, all to the further less and damage of Piper and Its chareholders. The said defendants and those responsible therefor artificially affected and deprended the market in Piper shares on the MYSE during that entire period in that trading

in Piper securities was and remained suspended, and indeed the NYSE had referred defendants' misconduct to the SFC for the purpose of delisting Piper shares altogether, to Piper's damage.

18. That thereupon and in furtherance of their aforesaid conspiracy and almost simultaneously with the termination or rescission of the aforesaid acquisition of U.S. Concrete and Southply by Piper, the individual defendants sold or agreed to the sale of their own shares and shares they controlled in Piper, constituting approximately 30% of the common stock of Figer to the defendant Banger Funta Composation ("Banger Punta"), as a first step in a wrongful and self-dealing agreement for a consolidation or merrer of Piper with Banger Funta for unfair and inadequate consideration; that the individual defendants also caused Piper to make an agreement to conline or merre Piper with Bangor Punta in face of one of their earlier announcements (in opposing the is-Craft's tenior offer referred to in paregraph "8" hereca) in the public processor to be on through the letendant fillion W. Tiper, Jr., Freelder of Piper, that Pirer did not have any interest in Chris-Craft's seve and that "he aren't interested in any mergers or associations or anything like this".

19. That the sale of defendants' shares referred to in paragraph "18" hereof and the consolidation or merger of Piper with Pencer Punta, is additionally properful in that it is nurposed to perpetuate the individual defendants in control of Piper and to continue them as officers and directors of Piper to continue to receive the benefits and emoluments of their offices and to dominate and control the management of Piper and prevent Chris-Craft from electing directors to replace the individual defendants as directors and officers of Piper and accuire Piper by an exchange of shares, consolidation and merger of Piper with Chris-Craft, to

all of which Bangor Punta agreed and participated, in violation of law.

- 20. That the individual defendants, aided and abetted by Grumman and Bangor Punta, in furtherance of their said plan and scheme in which Grumman and Ranger Punta joined and participated, wrongfully manipulated the shares of Fiper, in connection with the sale of Piper chares to and acreements made with Grumman, U.S. Concrete, Southply and Bangor Punta, all for their selfinterest and self-dealing purposes, in fraud and deceit of Piper and its shareholders, and they impaired and depressed the market in Piper shares for their own profit, and agreed to sell same to Grumman and then to Bangor Punta at inndequate prices, and they wasted and misappropriated the assets of Piper, diluted the value ofits shares in and by the rurchase and sale agreements aforementioned, caused the personent delisting of Piper on the NYSE and consequent loss of its market for its shares, and violated their fiduciary oblightions and duties to Piper and its shareholders.
- the said individual defendants, were wronkfully purposed to induce the plaintiff and other shareholders of Piper not to sell their Piper shares to Chris-Craft, and instead to execute prexies to the Piper magement's nominees, which defendants continue to solicit in pursuance of their aforementioned plan and scheme to perpetuate and insure their control of Piper, and their election to the Piper Board of Directors at Piper's said around meetings scheduled first on February 4, 1969, and to defeat and prevent defendant Chris-Craft from electing directors of Piper and raining control of Piper's Board of Directors at said annual recting and since, and to defeat and prevent Chris-Craft from electing directors at said annual recting and since, and to defeat and prevent Chris-Craft from contining, conscilidating or merging

Piper with Chris-Craft;

- (b) That the investment agreement and sale of 300,000 shares of Piper unissued or treasury shares to Grumman at \$65.00 per share, was for less than their value and was purposed solely to counteract and defeat the Chris-Craft objectives and retain control in and over Piper by the individual defendants, upon an understanding with defendant Grumman that Grumman would vote such stock for and perpetuate the individual defendants, or their designees, as directors and officers of Piper and dilute, depreciate and hold down the value of Piper shares;
- approximately 470,000 shares of Piper to U.S. Concrete and Southply upon the acquisition of U.S. Concrete and Southply upon the acquisition of U.S. Concrete and Southply by Piper, was for less than the true value of such Piper shares and was purposed solely'to counteract and defeat the Chris-Craft objectives and retain control in and over Piper by the individual defendants, upon an understanding with the defendants U.S. Concrete and Southply that the recipients of such Piper shares would vote such stock for Piper's management and perpetuate the individual defendants, or their designeds, as directors and efficers of Piper and dilute, depreciate and hold down the value of Piper shares;
- (d) That the agreement and sale of the shares of
 Piper owned or controlled by the individual defendants to Bangor
 Punta was purposed solely to counteract and defeat the Chris-Craft
 objectives for the sole benefit of the individual defendants,
 and to sell out Piper to Bangor Punta at a wholly inadequate price
 and one that defendants allegedly would not consider had they not
 been hard pressed by Chris-Craft's proposals;

- (e) That the wrongful and wholly selfish and selfish and selfish and selfish and practices of the defendants, except Chris-Craft, have caused great loss and damage to Piper and its shareholders, the amounts of which can only be determined by this action.
- defendants to block Chris-Craft's take-over of Piper by wrongful means, in which the defendant Bangor Punta joined and participated and the sale of defendants' shares to and the consolidation or merger of Piper with Bangor Punta, referred to in paragraph "18" hereof, is additionally illegal, in that it was initially disclosed to the public and particularly to Piper's shareholders by press release of the individual defendants, on behalf of Piper, and Bangor Punta, issued on or about May 8, 1969, which press release constituted an offer to sell securities before a registration statement and prospectus had been filed, as required by law.
- 23. That moreover in the said press release of May 8, 1969, referred to in paragraph "22" above, the defendant Bangor Punta stated that

"Bangor Punta said the securities package it will offer for shares held outside the family is worth, in the judgment of First Boston Corp., not less than \$80 per Piper share. The Piper family will receive 'no more per-share' than other holders are offered, Bangor Punta said."

But Bangor Punta wrongfully omitted to disclose the material fact, among others, that it was to pay a bonus or premium to the individual defendants for their aid if Bangor Punta acquired more than 50% of Piper shares; and in its financials it carried as an asset shares of Bangor and Aroostock Railroad at a value of approximately \$16 million, which Bangor Punta and the individual defendants well knew or should have known was grossly excessive and exaggerated, and Bangor Punta has since sold its said shares in Bangor and

Aroostock Railroad for approximately \$6 million.

- 24. That the scheme of the individual defendants to block Chris-Craft's take-over of Piper by crongful means, in which Bangor Punta joined and participated, and the sale of defendants shares and attempted consolidation or merger of Piper with Bangor Punta, referred to in paragraph "18" hereof, was additionally illegal in that said defendants caused or induced sales of Piper shares to Bangor Punta for cash in certain private transactions while Bangor Punta's exchange offer was yet outstanding, to the great loss of Piper and its shareholders.
- defendants, and of Grumman and Bangor Punta, aforementioned, were purposed to deceive and defraud Piper and its shareholders and Piper and Its shareholders were defrauded and departed thereby.
- That the damages and lost to liner, the plaintiff and other Piper shareholders tere council wolch by the acts and practices of the defendants, except Chris-Oraft, and the defendants responsible should be required to account therefor, and their illeral acts enjoined and Bangor Punta directed to dives itself of all wrongful and illeral purchases of Piper shares by decree of the Court. That Chris-Craft intends to hold Piper responsible for huge damages suffered as a result of the foregoing acts, or some of them, and to which it claims to be entitled as a result of a determination by the United States Court of Appeals, on April 28, 1970, in its favor, but said damages, if any, were caused by the wrongful acts of the individual defendants and Bangor Punta and they are responsible to Pirer and its share-holders therefor.
 - 27. That this action is not a collusive one to confer

on a Court of the United States jurisdiction of an action of which it would not otherwise have jurisdiction.

- of Directors of Piper and/or Piper to bring action for the misconduct here complained of, because such a demand would be futile. The said directors are the very individuals against whom complaint is made and who are defendants in this action, and to make demand upon them or against them would be tantamount to asking that they sue themselves. If any such action were brought by such directors it could not and would not be effectively prosecuted.
- stockholders of Piper to bring action for the misconduct here complained of, because such a demand is unnecessary and is not required by law and it would be fatile, (1) because under the charter and by-laws of Piper, the management of its affairs, including the bring are of muits, in entrunted to its Board of Directors and not to the misckin lders; (1) stockholders of Piper cannot by resolution or otherwise require Piner or its stockholders to bring such an action; and (3) a stockholders' resolution demanding the bringing of such an action would be futile since control of the action would be in the hands of the very persons who are alleged to be the wrongdoers and cannot be properly prosecuted by them.
 - 30. That plaintiff has no adequate remedy at law.

SECOND COUNT

31. Plaintiff repeats and reiterates the allegations of paragraphs "1" to "30", inclusive, as if now fully and at length set forth.

- Grumman at \$65.00 per share was grossly and unconscionably inadequate and was part of a wrongful scheme in which Grumman aided and participated.
- 33. That the agreement of Bangor Punta to acquire Piper by exchange of shares, by consolidation or merger, or otherwise, contemplated payment by hangor Funta to Piper's shareholders of not less than \$80.00 per chare, and the Court should direct Bangor Funta to specifically perform its said agreement, but at not less than \$80 per share.
- 34. That by reason of the foregoing, defendants Grunman and/or Banger Punta chould be compelled by decree of the Court to specifically perform their agreements with Piper but at such fair value as the Court shall determine; that in addition or in the alternative, the unit es of Piper resulting from the bisconduct. In which Court and In which they restricted and abetted the individual defendants and in which they participated should be determined and judgment rendered in accordance with such determination.

THIPP COUNT

- 35. Plaintiff repeats and refterates the allecations of paragraphs "1" to "30", inclusive, as if now fully and at length set forth.
- 36. That at the time of Chris-Craft's tender offer, Chris-Craft well knew or should have known that the market price of the shares of Piper was depressed and furthermore that its lender offer for Piper shares was unconsciouably and grossly below their true value.
- 27. That defendant Chris-Craft's tender offer was calculated and timed for the purpose of taking over and

controlling Piper's Board of Directors or the Board of Directors to be elected at the annual meeting of Piper on February 4, 1969, with a view to controlling Piper as a first and initial step to merge Piper into or with Chris-Craft at less than the fair value of Piper, as an arm or subsidiary of a conglomerate in an unrelated business, contrary to the interests of Piper and its shareholders, and to the detriment and damage of Piper and its shareholders.

- was calculated to vote the shares of Piper to be acquired under and by virtue of such tender offer without payment and without disclosure that Chris-Craft intended not to pay therefor prior to Chris-Craft's voting such shares so tendered at the said annual meeting of Piper on February 4, 1969; that Chris-Craft failed and omitted to clearly disclose to Piper shareholders that it would not pay for the shares tendered until after it voted the accompanying proxies at said annual meeting; that the omission of Chris-Craft to clearly state its aforesaid purpose was in truth and fact because Chris-Craft had no knowledge that its tender offer would be successful and it was Chris-Craft's purpose to gauge the success of such tender offer before and without payment and without informing Piper shareholders they would not be paid prior to the said annual meeting of Piper.
- 39. That the omission of Chris-Craft to clearly reveal that it would not pay Piper shareholders for shares tendered pursuant to such tender offer until after it voted such

shares at the annual meeting of Piper scheduled to be held on Pebruary 4, 1969; that Piper shares were worth far in excess of Chris-Craft's tender offer; and that the true, undisclosed and sole purpose of such Chris-Craft tender offer was to oust Piper management and consolidate or merge Piper with Chris-Craft, constitute the wilful violation of Sections 10(b) and 14(a) of the Act and Rule 10b-5 and Regulation 14a-1, et sel. of the SEC for the solicitation of Piper shares and proxies on which defendant's tender offer was conditioned. Moreover, some or all shareholders of Piper would not have accepted Chris-Craft's tender offer and given Chris-Craft proxies for the annual stockholders meeting of February 4, 1969 had they known of Chris-Craft's purpose to vote their shares of Piper for Chris-Craft's purposes before Chris-Craft paid for the same.

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40. That Chris-Craft's tender offer referred to in paragraph "8", above, was grossly and unconscionably inadequate and was purposed to acquire Piper and to merge and consolidate Piper with Chris-Craft at a cost to Chris-Craft of not more than \$65.00 per share or its equivalent, which Chris-Craft failed to reveal to Piper shareholders in such tender offer and in its solicitation of proxies; that by a second tender offer, Chris-Craft has since that time (but prior to the proposal of the individual defendants, conspiring with Bangor Punta to block the plans of Chris-Craft), proposed to consolidate or merge Piper with Chris-Craft on the basis of an exchange of shares and warrants to purchase the new Chris-Craft stock (i.e., Chris-Craft stock subsequent to merger of Piper) which

was again grossly and unconscionably inadequate and of little value, if any, above Chris-Craft's aforesaid tender offer of \$65.00 per share and which may well be less than Chris-Craft's first said tender offer.

- 41. That since the institution of the instant action, and since its proposal to exchange Piper shares for Chris-Craft shares and warrants, as alleged in paragraph "40", above, Chris-Craft has increased its second offer by \$10.00 per share, but it did so in manner purposed to confuse and mislead Piper shareholders, to conceal prior inadequacy, and said Chris-Craft offer yet remains unconscionably and grossly inadequate.
- Piper shareholders under its above mentioned second tender offer, Chris-Craft advertised in the public press that it would pay tendering Piper shareholders interest at the rate of \$5.36 per annum to the "Effective Date of Exchange", on each share of Piper tendered, but it omitted to say on what amount it would pay interest. Moreover, Chris-Craft omitted to clearly disclose that it was not obligated to pay any interest whatsoever, however long it might postpone the "Effective Date of Exchange", if it transpired that a minimum of 80,000" shares of Piper, specified in said second tender offer, are not tendered.
- 43. Furthermore, in said advertisement of May 21, 1969, Chris-Craft omitted to clearly disclose that if Piper shareholders tendered less than "a minimum of 80,000" shares

of Piper, Chris-Craft at its option, could accept such lesser number of shares, in which event, Piper shareholders who thus tendered their shares to Chris-Craft would be placed at disadvantage in the event of an offer from Bangor Punta, or others, superior to that of Chris-Craft, or in the event the market price exceeded the Chris-Craft tender offer.

- 44. That meanwhile and on or about May 9, 1969, to preface, or fortify and further the success of Chris-Craft's second tender offer, Chris-Craft announced in the public press that "Chris-Craft's legal counsel considers the announcement [of the Piper Bangor Punta agreement and any merger attempt] 'in violation of the Federal securities statues [sic] and Securities and Exchange Commission rules' ", which was an improper, wrongful and purposed method of inducing the tender of Piper shares to Chris-Craft until such alleged announcement had actually been declared to be such a violation by due process, the Securities and Exchange Commission, or adjudicated to that effect.
- 45. That defendant Chris-Craft has purchased Piper shares from Piper shareholders at grossly and unconscionably inadequate prices.
- 46. That defendant Chris-Craft furthermore violated Sections 9 and 16 of the Act in that said defendant conspired with third parties to and it did conceal from Piper, its management and its stockholders, the acquisition by defendant Chris-Craft of at least 200,500 shares of Piper or the beneficial interest therein, which was a control interest in Piper.

- aforementioned, Chris-Craft procured the election of one or more directors at the Piper annual meeting of February 4, 1969; that such election is illegal and should be set aside by the Court.
- 48. That Chris-Craft has procured a list of stockholders of Piper by violation of law and its solicitation of
 shares and proxies by reason of such violation of law, and Rule
 10b-6, has caused great damage to Piper and its shareholders and
 has enabled Chris-Craft to purchase Piper shares from Piper
 shareholders at grossly and unconsciouably inadequate prices and
 Chris-Craft continues to do so.
- 49. That by reason of the foregoing, Chris-Craft should be directed and compelled to pay Piper and its shareholders the fair value of Piper shares acquired and to be acquired by Chris-Craft and to pay Piper and its shareholders all damages and losses custained by them as a result of the natters above set forth.

FOURTH COUNT - CLASS ACTION

50. Plaintiff repeats and reiterates the allegations of paragraphs "1" to "30", inclusive, as if now fully and at length set forth.

Class Action Allegations:

(1) This action is properly reintainable as a class action within Rule 23(b), subdivision (1) (A) and (B), and (3), Federal Rules Civil Procedure.

Plaintiff makes no claim against the defendant Grussan in this

unknown, but it is believed that the number is sufficient to comply with the requirements of this rule. The number will be ascertained by discovery, (Approximately 1,000,000 shares involved).

as those Piper shareholders who did not sell their Piper shares prior to the deliating of Piper on the Nysk, as well as (a) those Piper shareholders, except defendants, who sold their shares to Bangor Punta upon its tender and exchange offer to Piper shareholders; (b) those Piper shareholders who sold their shares to Chrir-Craft upon its tender offers or at private sale while its tender offers had not yet expired; and(c) those Piper shareholders who sustained a loss in the sale of their shares subsequent to January 23, 1969.

interest adverse to the classes; that plaintiff has owned her chares long prior to the acts and practices complained of; that the is not associated in any way, whate or form with any of the defendants; that her attorneys are experienced in this type of litigation and will prosecute the same differently on behalf of the plaintiff and the clases she represents; and that plaintiff's attorneys have no interest adverse to the claims of Piper share-holders.

(iv) The questio us of law and fact common to the class are (a) whether defendants, except Chris-Craft, in their efforts to block Chris-Craft from taking over or merging Piper with Chris-Craft, made false or misleading statements and material omissions to the public and particularly to Piper shareholders allering the inadeouscy of Chris-Craft's tender offers and engaged in other illegal acts in the sale of shares before Bangor Punta Tiled and cleared its registration statement and

prospectus proposing a merger of Piper with Bangor Punta and in acquiring Piper shares privately and otherwise than through itsmerger proposal prior to the expiration of its registration and prospectus for an exchange of Piper shares and merger with Piper; and (b) whether Chris-Craft, in its efforts to take over or merge Piper with Chris-Craft, engaged in illegal acts in the acquisition of Piper shares during the period when its tender offers had not yet expired, which acts and practices constitute viclations of the Securities Act of 1933 and the Securities and Exchange Act of 1934 and the Rules and Regulations applicable thereto, and (c) damages for breach of fiduciary duties.

complaint, it is claimed (a) that the defendants, except Chris-Craft, made false or misleading statements and material omissions alleging the inadequacy of Chris-Craft's tender offers to Piper shares for a bangor Ponta "package" before a registration and prespectus to the Alled and cleared with the SEC and will defendants also engaged in acquiring Piper shares through private sale or other illegal means while its registration and prespectus for the merger of Piper with Bangor Punta had not yet expired; and (b) that Chris-Craft engaged in illegal mets in acquiring Piper shares other than by means of its tender offers prior to the time such tender offers expired. In further compliance, plaintiff alleges

(A) There is no interest in members of the class in individually controlling the prosecution of separate actions known to the plaintiff.

(E) The action was commenced on February 3, 1969, as a derivative and class action containing the charges of this complaint which have been expanded by subsequent events and the addition of parties, contained in amended and supplemental

complaints in this action; actions have also been commenced in this and other juriscitions, (a) brought by Chris-Craft against Bangor Punta, and (b) by Bangor Punta against Chris-Craft.

- tions of the claims in this forum for the convenience of the parties and to facilitate the prosecution of the action.
- (D) Plaintiff knows of no difficulties likely to be encountered in the management of a class action.
- 51. That plaintiff and the stockholders of Piper similarly situated who sustained loss and demage by the wrongful acts of the defendants as hereinabove set forth constitute a class so numerous that joinder of all rembers thereof would be impracticable that there are questions of law and fact common to the class; that the claims of plaintiff as a representative party are typical of the claims of the class and the plaintiff as a representative rarty will fairly and adequately protect the interests of the class. The prosecution of reparate actions by individual members of the class would create a misk of inconsistent or varying adjudiontions with regrect to its vidual members of the class which world establish Long spatching tomberes of enduct for the parties e, posing the class. In adjulication of plaintiff's claims would as a practical matter be dispositive of the interests of other members not parties to such adjudication. The bringing of this action is the best method or medium for the fair and efficient adjudication of the controversy.
- 52. That as a result of the acts and practices complained of defendants Bangor Punta and Chris-Craft have purchased
 Piper shares from Piper's shareholders at grossly and unconscionably inadequate prices, and said defendants continue and intend
 to continue to do so.
- 53. That Bangor Funta likewise intends to and did filegally buy Piper shares of and from Firer charcholders at fressly and unconscionably inadequate prices, or wrongfully merge Piper into Bangor Funta, or intends to do so.

- 54. That plaintiff was a shareholder of Piper at all the times of the acts and practices complained of.
- plained of Piper shares were reasonably worth in excess of the amounts which defendants Chris-Craft and Bangor Punta have offered or Intend to offer Piper shareholders.
- 56. That as a result of the acts and practices complained of, defendant Pangor Punta has illegally and wrongfully purchased Piper shares of and from Piper shareholders; the store endants, except Chris-Craft, have caused Fiper to be delicted from the New York Stock Exchange, deprived Piper shareholders of a market for the sale of their shares; and have caused great loss and damage to the pinimiss and other shareholders of these similarly bituated.

PARTH COLD AS ACTIMET THE INDIVITED DES MODERN CHOUNTED DE ASED

- of paragraphs "1" to "30", inclusive, as if now fully and at ...
- 58. That in and about the year 1069 Cartanca Realty Co., Inc., a Fennsylvania corporation ("Castanca"), and Piper Investment Company, a Mevada corporation ("Piper Investment"), sere owned or controlled by the individual def endants or some of ther.
- 59. That in or about February and Farch, 1969, the effendants Howard Fiber, Thomas P. Piper, William T. Piper, Jr. and William T. Piper, decoased, acquired 16,525 shares of Piper from Castanea or Piper Investment, or the beneficial interest therein, directly or indirectly, which they sold, assigned or the beneficial interest.

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transferred to Bangor Punta in or about the month of August, 1969

- 60. That the aforesaid sale, assignment or transfer to Bangor Punta of said Piper shares was made within six months after the date of such purchase.
- transfer to Bangor Punta of said shares of Piper, as well as the sale of some 30% of Piper shares referred to in paragraphs "18" and "22" above and the bonus or premium referred to in paragraph "23" above, were accomplished by the misuse, illegal use and abuse of insider information for the personal profit of the said defendants, in violation of Section 10(b) of the Exchange Act and Rule 10b-5 of the Rules of the SEC, and said defendants realized short swing profits by one or more of said transactions, in violation of Section 16 of the Exchange Act of 1934, to which Piper is entitled, and the defendants liable therefor should be compelled to pay over the same to Piper, together with any damages sustained by Piper as a result thereof.
- 62. That said defendants failed to file true and accurate reports with respect to said transactions as required by law, and Piper and its shareholders were damaged thereby.
- 63. That two years have not elapsed since this cause of action accrued.
- 64. That the transactions of said defendants in the purchase and sale of the shares and equity securities of Piper were not exempt securities within Section 16(a) and (b) of the Act and Rule 16 of the SEC.

WHEREFORE, plaintiff prays judgment:

- (1) That the Court should declare and determine the rights and obligations of the defendants to Piper and its stockholders, and defendants acts to be in violation of law.
- (2) An injunction should be granted by the Court restraining the enforcement of any and all agreements between or among the defendants which purport to sell or exchange Piper shares for the shares of any defendant, or combine, or consolidate, or merge Piper with any Jefendant at less than fair value of Piper's shares as determined by the Court.
- (3) That an injunction should be granted restraining a take-over of Piper by or merger with Chris-Craft.
- (4) That any take-over by or marger of Piper with Bangor Punta should be restrained.
- directed to account, divest themselves of all Fiper chares illegally:
 accoursed, and pay to Piper and/or its stockholders all damages
 suffered by them, including profits derived by said defendants,
 directly and indirectly, as a result of the wrongful acts and
 self-dealing alleged in this complaint, together with interest,
 damages and short swing profits as provided by law.
- (6) That the agreement of Grumman to purchase 300,000 shares of Piper should be enforced, but at fair value; that in the alternative, the damages of Piper and its shareholders resulting from such transaction should be determined by the Court; that the agreement of Bangor Punta to acquire Piper by exchange of shares, consolidation or merger should be enforced, but at fair value and not less than \$80 per share; that in addition, or in the

alternative, the damages of Piper and its shareholders should be determined by the Court.

- (7) That the election of directors at the Annual Meeting of Piper on Pebruary 4, 1969 should be enjoined, or if ... held, vacated and set aside by the Court and a new election ordered under the direction of the Court and upon terms and conditions and voting as determined by the Court, and the proxies of management and Chris-Craft declared null and void.
- (8) That plaintiff, on behalf of herself, and other stockholders of Piper, similarly situated, requests that this Court determine that the Fourth Count of this complaint be maintained as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure.
- (9) Granting plaintiff such other, further and different relief as to the Court seems just.
- (10) Awarding plaintiff reasonable attorneys' and accountants' fees and expenses, and the costs and disbursements of this action.

STULL & STULL Attorneys for Plaintiff 7.7

Office & P. O. Address 6 East 45th Street New York, New York, 10017 (212) 687-7230

STATE OF NEW YORK) COUNTY OF NEW YORK)

LILIAN STULL, being duly sworn, deposes and says: that deponent has read the foregoing amended and supplemental complaint and knows the contents thereof; that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as tothose matters deponent believes it to be true.

Tillian Stull

Sworn to before me this

13 % day of May, 1970

CHENDOLIM A COUNTELLY CHAPT PUBLIC COATS TO COATS TO COATS C

TOTAL CONTROL OF WAY ACK

LILLIAN STULL,

Plaintiff,

RECTIVED 3-12-70

Py /r. ack

APPEDAVIT IN OPPOSITE TO LOCION FOR SUPMAN

59 Civ. 440

MORMAN J. CHIENE, MALTER C. J. OUMEAU, CHARLES .. POOL, R. X. CRIFFIN LOWARD PIPE. TROUBS F. PIPER, MULLIAN C. CRIFFIN LOWARD CARDENS F. PIPER, MULLIAN C. CRIPTING CORPORATION and MILLIAN T. PIPER, GR. MALTER THE CORPORATION and BANGOR PUMIA COMPORATION.

Defendants.

COLUMN OF NEW YORK)
SS.:

LILLIAN STULL, being duly sworn, deposes and says:

- 1. I am the plaintiff above named and rake this applicable in opposition to a motion by the defendant Grunman after Engineering Corporation ("Grumman"), for summary judgment.
- 2. This action is brought derivatively and representaplical, on behalf of Piper Aircraft Corporation ("Piper") and its
 succeptually on behalf of Piper Aircraft Corporation ("Piper") and its
 succeptually on behalf of Piper Aircraft Corporation ("Piper") and its
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 succeptually on behalf of Piper Aircraft Corporation ("Piper") and its
 succeptually on behalf of Piper Aircraft Corporation ("Piper") and its
 succeptually on the Security of the Court is based upon Section
 27 of the Securities Exchange Act of 1934 ("Act") and diversity
 of citizenship and amount exceeding \$10,000 (15 USC 78aa; 28 USC 1332).
- 3. Appropriate to Crummin's motion, the action socials from sommon law Fiduciary misconduct (by the Piper sanagement) and violations of Sections 10(b) and 15(a) of the Act, and Rule 10b 5 and Regulations 15a 1 at page, of the acturities and Exchange Commission ("SEC"), charged and chargeable instance sections, including Grumman, who acted together,

and providinated with the Piper management in a prongrul conspired to provent a take-over of Piper by Chris-Craft Industries, Inc. ("Chris-Craft"), at great cost and loss to Piper and its share-holders, including the delicating of Piper by the New York Stock exchange ("MYSE"), itself a valuable property right.

- I am and have been a sharsholder of Piper for many years prior to the acts and practices complained of, my conversance with which is limited to the circulars, letters and writings I received from some of the defendants and information disseminated in the public press. I own 150 Piper common shares which I purchased on the NYSE (including stock dividends), which I owned to the time this action was commenced and since. I have sold none of my said shares, a true market for which is also questioned.
- 5. Grumman is the dirst of several links in a chain of minanducts forged by Puper management in defendance' (except Caris-Caft) meritless and masseful and wrongful conspiracy to slow the aforementioned take-over of Piper by Caris-Craft, as I am tovised by my attorneys and verily believe and which have not escaped the attention of this Court and the United States Court of Appeals (Chris-Craft Industries, Inc., v. Bancor Punta Corp., et al., __Fed 2d ___, decided 11/6/69, Decision Slip No. 2.9 Docket No. 33983 CCH Federal Law Rep. \$2510). The additional links in this chain are United States Concrete Pipe Company of Florida ("U.S. Concrete"), Southply, Inc. ("Southply") and Bangor Punta Corporation ("Bangor Punta") (Am. and Suppl. compl. paras. 16 16), which followed Grumman's alleged and disputed withdrawal.
 - 6. Since Grumman's pirticipation in the compairacy charged is exclusively within Grumman's knowledge and an Inventional tion of the facts on my behalf and the need for Grumman's apposition can be better explained by my attorneys, I respectfully

which is incorplasted hardle by reference. however, I can relate to the Court to the space by reference. however, I can relate to the Court certain facts upon which I acted in initiating this half of and I am advised by my attorneys that I should do so.

- 7. On or about January 23, 1969, it was announced in this places that theis-Craft had acquired some 200,500 common staces of Piper. This was an escape of 10% of Piper's common stack. Source of the annual meeting of Piper someduled for the service management proxy; and Chris-Craft made a tender offer of 155.00 per share for 300,000 shares of Piper, concisioned upon anareholders executing a proxy to Chris-Craft for the election of careovors at the aforementioned annual meeting on February 4th.
- 5. Charaupon, Piper shares, which had been trading on the MISI at market prices of slightly less than \$55.00 per share may be a little less than Chris-Craft's tander offer. Prior to that time, however, Piper had traded on the NYSE at prices in excess of \$70.00 per share, and I considered its worth and potential in a rapidly growing business (light commercial and private liberaft) to be conservatively in excess of \$100.00 per share, as aid others.
- 9. The individual defendants, constituting Piper's coard of Directors and management, and Grumman, well knowing that Piper shares were worth a good deal more than \$65.00 a share, ..., agged in the misconducts complained of, purposed to control Piper at and after the annual meeting, as I claim and as I am informed by my attorneys Grumman's deposition will develop. There were also other motives for their alleged misconducts as Grumman's deposition will prove, and this included Piper's leadership in small aircraft which defendants' wrongful acts have greatly

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EXHIBIT "F" ANNEXED TO AFFIDAVIT OF PAUL G. PENNOYER, JR.

danaged, as I claim, and for all of which an ascounting and demages, among other prayers for relief, are sought.

10. Following the Chris-Craft tender offer, by telegram (Em. "A", annexed) and the mails (Exhs. "B" and "C", annexed), among other instrumentalities of interstate commerce, Piper examplement, to the knowledge and with the participation and aid of transac, embarked upon a plan and schame to block Chris-Craft's presumed plan to take over Piper, and there is evidence that Piper and Gramman acted together and in concert to block Chris-Craft even before the public amouncement of Chris-Graft's stock interes and tender offer for Piper shares on January 23, 1969 (and see Carr, mov. aff., para. "5"); and they certainly asted together to blook Chris-Craft immediately upon public notice of Chris-Orangia objectives. Grundan's deposition well fully establish these Macts, as my attorneys advise. By the above-mentioned writings (Exhs. "A", "B" and "C"), said defendants in the name of Piper solicited shareholders of Piper not to sell to Chris-Craft, but instead to execute the aforementioned management proxies, upon the representations that Chris-Craft's tender offer was "inacequate" and not in the best interest of Piper stockholders; that "NOT ONE OF YOUR BOARD OF DIRECTORS OR DAMOGREENT WILL TENDER AIS SHARES", which defendants emphasized to induce stockholders to follow the alleged lead of the allegedly "independent" Board of Directors and Management of Piper (some of whom did not even oun Piper shares), which defendants knew was untrue, and they impliedly represented that "Piper stock is worth substantially more than it [Chris-Craft] is offering". They also said that Piper's management has had preliminary discussions with several major industrial corporations regarding possible complication with Piper", but omitted to state that they had all but concluded a very questionable deal with Crumman, in the circumstances that have laveloped (Exh. "D", annamed).

11. More than that, the individual defendents and Grvanan contrived to artificially influence the market in Piper shares for their private advantage and profit, and mislead and prevent Figer and its shareholders from dealing or negotiating ony kind of cent with Chris-Croft in the alleged best interests. or Mysr and its shareholders. In such behalf and in furtherance of white conspiracy, they caused Piper to sell Grumman an offsetwing block and identical number of 300,000 of unissued shares of signs at the identical price of \$65.00 per share offered by Unric-draft, which defendants represented to me among other Piper charabolders, ostensibly in the name of Piper, was inadequate. nor is there any statement in the press release of Grumman which I found or can find conditioning such sale on the approval of the Wys. im. "D", annexed), as Cruster apparently well knew and everlocked to do (Carr, mov. 'aff., Exh. "B"). That sale was 400 or all by the Boards of Director's of both Grumman and Piper, o. or dout January 30, 1909, as I am advised by my attorneys, the minutes of which are conspicuously omitted by the movant and should be discovered.

January 28, 1959 (Carr, mov. aff., Exh. "C") was not published in the press as far as I knew (Exh. "D", annexed) and first came to my attention by Grumman's prior motion to dismiss, which motion has withdrawn by Grumman, (a copy was furnished to my attorneys by chris-Craft's attorneys during the recent appeal in the United states Court of Appeals, aforementioned, as I am advised). This unterly confusing transaction, furthermore wrongfully diluted the equity of shareholders of Piper by an agreement of sale, or to sell at that time.

300,000 unissued Piper shares at less than their value/ Furthermore, it was a voting gimmich undisclosed in any proxy material, purposed to vote such 300,000 shares by Grumman four days later at

che candil Piper meeting, on Fabruary 4, 1969, in favor of consignment, to block Chris-Craft's take-over, or election of pirottors of Piper, even if Chris-Craft's tender clier proved to be successful, as the individual defendants and Grummin avidently lears anticipating it would be. That was the true agreement between the individual defendants and Grummen, acting in the name of Piper and that the letter of January 28, 1969 (Carr, mbv. aff., Exh. "3") was intended as anything more than a stop-gap to block Chris-Craft, or to make a deal with Chris-Craft favorable to said defendants is open to serious question. I challenge and dispute this alleged transaction, in toto and I respectfully submit that it has cased Piper and myself substantial damage and expense for thish defendants are responsible and should make good on the accounting prayed for.

- 13. I content that as a result of my instituting the instant action and my attorneys contacting the SEC, the defendants illusedly terminated this cale of 300,000 shares of Piper to brumman at \$65.00 per share and they compounded their misconducts by wrongfully purporting to excuse Grumman from Crumman's obligation and liability to Piper, resulting from an announced sale, and misconduct, to the loss, damage and substantial cost of Piper and its shareholders, amounting to at least \$19,500,000.
- 14. The alleged true deal of defendant Crumman, which it now apparently serves the purpose of this moving defendant to try upon the Court (Carr, mov. aff., Exh. "C"), was not disclosed to stockholders, and it should have been, because it casts doubt upon any bona fide sale as these defendants represented to stockholders occurred (Exh. "D"). It also emphasizes the voting gimmick stop-gap and fait discompli stratery by which they tried to bluff Chris-Craft, which I am advised by my attorneys Grumman's deposition will develop, together with all of the true facts in

the Sole and employive knowledge of the defendants. Furthermore, an illeged but unsupportable refused of the MUSE to list such 500 000 shared results directly or indirectly from defendants' misconduct. They didn't even make an application.

15. I am furthermore informed by my autornays and puspectfully submit that whatever the defendants, except Chris-Craft, did to suspend or terminate the Grumman transaction (and see Grundin answer, parc. "25"); whatever was their true cash; and whatever was called off, it followed the scheduled date of Paper's annual meeting and resulted from the institution of this covien. Even Grunnen's purported back cown (Carr, mov. aff., 19th. "D') comes 2 days after the amendment of my complaint as agrinsp Grunnan, and in defendants' great haste it was unacknowlsages and unapproved by stockholders or directors, as I am informed by my autorneys. It is simply a gift and give-away of Paper s rights to defeat this suit. Significantly, the so-called Sourcepty and U. S. Concrete deal alleged in plaintiff's amended complaint (parss. "16" - "18") which was equally wrongful (Exh. "E", shnexed), was initiated by these defendants, including Grumman, with the alleged termination or suspension of the Orumnen transaction, which I am advised was a substitution, in truth and fact with Grumman's approval and aid. All of these correcte, Southply and Bangor-Punta were and are but him in an unlawful conspiracy to block the Chis - Craft tale men of Lyen. The same stock that was the subject matter of the armen transaction had to be used for riper's take-over of U. S. Concrete and Southply as I am informed, and these transactions could not and did not happen overnight, as we will prove.

16. The contention that I have not sold any of my

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EXHIBIT "F" ANNEXED TO AFFIDAVIT OF PAUL G. PENNOYER, JR.

wheres in Piper is untended in law, as I am advised. It is also where the in fact. Piper is no longer listed and cannot be traced in the MYSE. It is not traced in the over-the-counter market, divise, as I am advised. It is not listed in any stock-market untended by the New York Times either daily or Sunday at it it doubtful that a true price can be obtained for Piper mares.

17. An examination of the defendant Grumesh is needed . to develop the true facts within the exclusive knowledge of drumesh, hereinabove alleged, notice of which is being served acceptable (Exh. "F", annexed).

MHEREFORS, it is prayed that defendant Grumman's motion for summary judgment be canied, or deferred pending its deposition, tursuing to FROP Rule 56 (f), and for such other, further or alternative relief as to the Court seems just.

Limb . 6-6. (1)

Sworn to before me this

10 = day of Warch, 1970

THE DEVIT IS CONTUENDED AND ADDRESS OF THE PARTY OF THE P

UNITED STATES DISTRICT COURTS SOUTH DISTRICT OF THE STA	E) 1-12-70
LILLE STULL,	File1
Plainite.	
v.	TO NOTICES BY GRUMMAN
MON I J. CREEKT, MAINTER C. CANSIVERING COLUMN SERVICE COLUMN SERV	1) FOR SUMMARY UUDG. ENG
PIPER, CHOMAS P. PIPER, CILLIARO, PIPER, JA., WILLIAMO, PERER, CAUCHAN CLAULTO ENCINLIBRAC CORPORACION AND	2) POR PROPERTIVE GADER VACATING
CARIS-ORAFT INDUSTRIES,	NOTICE OF DEPOSITION
Ja Candents.	59 Civ. 440

SUATE OF MEN YORK)
SS.:

LILLIAN STULL, being duly sworn, deposes and says:

- 1. I am the plaintiff above named and make this afficient in opposition to one motions by the defendant Grumman value and Engineering Componention ("Crumman"), one for summary judgment; and the second for a protective order vacating plaintiff's notice to take the deposition of Grumman.
- 2. This action was brought derivatively and representatively on behalf of Piper Aircraft Corporation ("Piper") and its stockholders. Surjection of the Court is based upon Section 27 of the Securities Exchange Act of 1934 ("Act") and diversity of citizenship and amount esseeding \$10,000 (15 USC 78aa; 28 USC 1832).
- 3. Appropriets to Grumman's motions, the action frestles from content law diductary misconduct (by the Piper management) in a similar of Sections 10(b) and 14(a) of the lot, and Rule 105 3 and Regulation 14a 1 of mon., of the

Securities and Exchange Committion ("SEC"), charged and charged able against certain defendance, including Cramman, who noted together, and participated with the Patter tanagement in a throughful conspirately to provide a take-over of Piper by Christoraft Industries, Int. ("Christoral"), at great cost and loss to Piper and its shareholders, including the delicating of Piper by the New York Stock Exchange ("MYSE"), itself a valuable proper right.

- years prior to the acts and practices complained of, my conversantion with union is limited to the circulars, letters and writings I received from some of the defendants and information disseminated in the public press. I can 150 Piper common shares which I purchased on the MYSI (including social dividends), which I owned at the time this action was communed and since. I have sold none of my said shares, a true market for which is also questioned.
- - 6. Since Crumman's participation in the compairacy things is exclusively within Crumman's knowledge and the need * Decision Slip No. 249 Docket No. 33933 CCM Rep. 92510

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EXHIBIT "G" ANNEXED TO AFFIDAVIT OF PAUL G. PENNOYER, JR.

The Supplier's exposition can be houser explained by my abbordays, I respectfully refer the Court to the annaxed affidavis of Richard J. Stell, which is independed herein by reference. However, I can relate to the fact certain facts upon which I acted in intelleting this modify, and I am advisor by my attorneys that I should done.

- 7. On or about damage 23, 1965, (a rear ego), it was announced in the nublic press that Chris-Craft had sequired some 200,510 colour shares of Piper. Inis was in execus of 10% of Piper account about. Notice of the annual menting of Piper accompanies by the usual numbers of proxy; and Chris-Craft made a tender offer of 665.31 per share for 300,000 shares of Fiper, conditioned upon clurcholders executing a proxy to Chris-Craft for the election of directors at the aforementioned annual meeting on February 4th.
- 8. Thereupon, Piper shares, which had been trading on the MYSE at market prices of slightly less than 955.00 per share jumped to a listle less than Chris-Craft's tender offer. Prior to that time, however, Piper had traded on the MYSE at prices in excess of 270.00 per share, and I considered its worth and potential in a rapidly growing business (small commercial aircraft) so se in second of 2100.00 per share.
- The individual defendants, constituting
 Piper's Bourd of deseators and management, and demonst must have
 resulted that Piper was worth a good deal more than 763.00 a
 share, too, as I am informed by my attending drumman's deponitidiff develop, alshough there were business motives for their

miscenducts as Orumnan's deposition will prove.

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10. Following the Chris-Craft Jender offer, by tolegram (Exh. "A", annoxed) and the mails (Exha. "B" and "C", (annexed), among other incommencatibles of intercoate commerce, Piper management, with the participation and aid of Grunman, as Grumman's deposition will establish as my apermays advise, solicited shareholders of Piper not to sell to Chris-Craft, but instead to execute the aforementioned management proxies, upon their representations that Chrit-Oraft's tender offer was "inadequate" and not in the best interests of Piper stockholders; Stat THOT ONE OF YOUR BOARD OF DERECTORS OF MANAGEMENT WILL TIMER HIS SHARES", which defendants caphacized be induce stockholders to follow the alleged lead of the allegedly "independent" Board of Directors and Watagement of Piper, which defendants | know was untrue, and they implically represented that "hiper stock is worth substantially more than it [Chris-Craft] is offering".

individual defendants and Grumman were artificially influencing the market in Piper shares to delaw, and mislead and prevent Piper and its shareholders from coaling or negotiating any kind of deal with Ohr's-Draft, in the alleged best interests of Piper and its chareholders, and in furtherance of their completely, they hold Grumman an offsetting block and identical number of 300,000 of unicsued shares of Piper at the identical price of \$65.00 per share offered by Chris-Craft, which they represented to me among other Piper shareholders, in the many of Piper, was inade made. For is there any statement in the price.

The sale was approved by the Boards of Sirectors of both Springers and Piper, on or about Wantery 36, 1959, as I at advised by my attorneys. The minutes of which should be discovered by my attorneys. The minutes of which should be discovered by my attorneys.

12. The agreement, as now alleged by Grunnin, duted January 23, 1989 (Corr., mov. aff. Exh. "C") was not published in the press, we the west of my knowledge and first came to my attention by Gramman's instant metion, although a copy of it was furnished to my attorneys by Chris-Craft's absorneys during the recond appeal in the United States Sourt of Appeals, aforementioned, as I am advised. This attemly confusing transaction, furthermore wrongfully diluted the equity of shareholders in Piper by an agreement of sale, or to sell 300,0 unisqued Piper shares at less than their value. Furthermore, it was a voting gimmick unficelessed in any proxy material, purposed to vote such 300,000 shares by Crumman four days later at the annual Piper meeting, on Tobraccy 4, 1960, in Caver of Management, to block Chris-Craft's take-ever, or election of Directors of Piper, even if Chris-Trafata tender offer proved to be successful, as the individual defendants and Crusman anticipated is would be. What was the true agreement between the individual defendants in the name of Piper and Grunnan and that the letter of January 28, 1960 was intended as enything more than a stopgap is open to serious quantion. I dispute this alleged transaction, in toto.

13. I comband that as a recult of my factiviting the instant action and my autornays across the unerself of defendants allegadly terminated this sale of 300,000 charges of

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EXHIBIT "G" ANNEXED TO AFFIDAVIT OF PAUL G. PENNOYER, JR.

Piper to Grumman at \$35.00 per share and they wrongfully purport to excuse Grumman from Grumman's obligation and liability to Piper, resulting from an announced sale, and misconduct, to the loss, damage and substantial cost of Piper and its shareholders, amounting to at least \$19,500,000.

14. The alloged true deal of defendant Grumman, which it now apparently serves the purpose of this moving defendant to divulge and urge upon the Court (Carr, mov. aff. Exh. "C"), was not disclosed to stockholders, and it should have been, because it casts doubt upon any bona fide sale as these defendants represented to stockholders occurred (Exh. "D") It also emphasizes the voting gimmick stop-gap, which I am advised by my attorneys Grumman's deposition will develop, together with all of the true facts in the sole and exclusive knowledge of the defendants. Furthermore, any refusal of the NY: to list such 300,000 shares results directly or indirectly from defendants' misconduct.

except Chris-Craft, did to suspend or terminate the Grumman transaction; whatever was their true deal; and whatever was called off, it followed and resulted from the institution of this action. Significantly the so-called Southply and U. S. Concrete deals alleged in plaintiff's amended complaint (paras. "16", - "18") which was equally wrongful (Exh. "E", annexed), was initiated by these defendants, including Grumman, with the allege termination or suspension of the Grumman transaction, which I am

andreval and aid. All of these defendants, Grussen, U.S. Concrete sond for the sed for the sed of the Share of the Share. The same stock that was the subject-mutter of the Sharen transaction has to be used for Piper's take-out of U.S. Scherote and Southply to I am informed.

ny shares in Piper is untamable in law, as I am advised. It is also untenable in fact. Piper is no longer listed and cannot be traited on the NYSE. It is not traded in the ever-the-counter tarket, either, as I am advised. It is not listed in any stocked market quotations published by the New York Times either-naily or Sunday and it is do not also a true price can be obtained for Piper shares.

15 needed to develor the true facts within the exclusive knowledge of Grunnan, hereinabove alleged.

MHEREFOLD, it is prayed that defendant Gramman's' motion for numbery judgment to denied, or deferred sending its deposition, pursuant to TROP Rule 56 (f); that its motion to vacate plaintiff's necies of deposition be denied, and that the stay of the same be vacated, and for such other, further or alternative relief as to the Court seems just.

Latter Stall

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AFFIDAVIT OF ROGER L. WALDMAN IN OPPOSITION TO MOTION.

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK		
	×	
LIILIAN STULL,	:	
Plaintiff,	:	
-against-	•	AFFIDAVIT
CHARLES W. POOL, WALTER C.	:	
JAMOUNEAU, R. K. GRIFFIN, NORMAN J. GREENE, HOWARD PIPER, THOMAS F. PIPER, WILLIAM T. PIPER, JR.,	:	72 Civ. 2055
AND WILLIAM T. PIPER, JR., THOMAS F.	•	
OF THE ESTATE OF WILLIAM T. PIPER, DECEASED, PIPER AIRCRAFT CORPORATION,	•	
and BANGOR PUNTA CORPORATION,	:	
Defendants.	:	
	-x	
STATE OF NEW YORK)		
: SS.:		

ROGER L. WALDMAN, being duly sworn, deposes and says:

- 1. I am a member of the bar of this Court and of the firm of Webster Sheffield Fleischmann Hitchcock & Brookfield.

 I submit this Affidavit on behalf of defendant Bangor Punta Corporation in opposition to plaintiff's motion pursuant to Rule 23(c)1 to declare the within action a class action.
- 2. This is a stockholder's representative action brought by Lillian Stull, on behalf of certain present and former shareholders of Piper Aircraft Corporation ("Piper") arising out of a 1969 contest for control of Piper. Plaintiff, a purported stockholder, alleges in essence that she was fraudulently induced not to accept two offers made by Chris Craft Industries, Inc. during the contest: (1) a cash tender

AFFIDAVIT OF ROGER L. WALDMAN IN OPPOSITION TO MOTION

offer of \$65 which expired on February 3, 1969, and (2) a registered exchange offer of securities and \$10 cash effective from July 24 to August 4, 1969.

- 3. Plaintiff's allegations concerning the February cash tender offer are contained in paragraphs 16 and 17 of the Complaint. They specifically exclude Bangor Punta, which did not become involved in the control contest until May, and consequently, liability and propriety of class action treatment with regard to claims in connection with the first offer are the concern solely of the defendants other than Bangor Punta.
- 4. The Chris Craft exchange offer with respect to which claims are made against Bangor Punta first became effective on May 15, 1969. The offer was amended the same day to add \$10 in cash to the securities offered, and was further amended on July 24 to add four more warrants to the package. When the offer closed on July 29, 1969, the holder of 112,089 shares -- not including plaintiff -- had accepted it. On the date it closed, the price of the component securities in the offer (based on high bid prices for the warrants and high market prices for the common) was \$53.25.
- 5. Six days prior to the effective date of the foregoing offer, on July 18, 1969, Bangor Punta made a registered exchange offer of its own to Piper shareholders. The Bangor Punta package consisted totally of securities, and when it closed, the holders of 111,628 shares -- again not including plaintiff -- had accepted it.

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AFFIDAVIT OF ROGER L. WALDMAN IN OPPOSITION TO MOTION

- 6. Plaintiff took meither of the foregoing offers.

 Together with holders of approximately 243,000 shares, she rejected both the Chris Craft and Bangor Punta offers, and retained her Piper stock. In verified complaints, copies of which are annexed hereto as Exhibits A and B, plaintiff has expressed the view that both offers were "grossly and unconscionably indequate," (Para. 53 of Ex. A; Para. 52 of Ex. B), and that "Piper shares were reasonably worth in excess of the amount which Chris Craft and Bangor Punta have offered"

 (Para. 55 of Ex. B)
- 7. After the close of the Bangor Punta and Chris Craft exchange offers, the price of Piper rose, primarily because both Chris Craft and Bangor Punta were making cash purchases in a continuing effort to obtain control. On August 5, the day after the Chris Craft offer closed, the price of Piper was \$65.25. By August 27, it had climbed to \$80. In off-exchange transactions, the price reached a high of \$84.
- 8. The holders of approximatley 130,000 Piper shares took advantage of this opportunity and sold during the August 4-27 period, at least 29,000 shares being sold at a price of \$80 or above. Plaintiff, however, did not take this opportunity. In a verified complaint sworn to on May 29, 1969 (Exhibit A hereto, paragraph 30), plaintiff expressed the view that \$80 was an inadequate price for Piper stock.

AFFIDAVIT OF ROGER L. WALDMAN IN OPPOSITION TO MOTION

- 9. Between September 1 and the present date, approximately 33,000 shares of Piper have been sold. Of the holders of 243,000 shares who, like plaintiff, rejected both the Bangor Punta and Chris Craft offers, only the holders of 80,769, one of which is plaintiff, retain their shares today.
- 10. On or about February 18, 1969, the plaintiff herein commenced a derivative action entitled Stull v. Greene, et al., 69 Civ. 440, alleging among other things that \$65 a share was an inadequate price. A copy of the tomplaint is annexed as Exhibit C. On or about May 29, 1969, plaintiff filed an amended and supplemental verified complaint (Exhibit A), alleging that the Chris Craft offer then outstanding was inadequate, and that the offer of Pangor Punta which was not yet effective would be inadequate if it was worth \$80 (Para. 30). On or about May 4, 1970, plaintiff verified a further amended and supplemental complaint (Exhibit B), which was filed in May 1973, reiterating her view that the Bangor Punta and Chris Craft offers were "grossly and unconscionably inadequate."
- 11. On August 25, 1971, the United States District Court for the Southern District of New York held in an action entitled SEC v. Bangor Punta Corporation, 331 F. Supp. 1154, that the registration statement covering the Bangor Punta offer misleadingly omitted to state that the carrying value of one of Bangor Punta's assets was obsolete, and ordered Bangor Punta to make an offer of recision to those Piper shareholders who had accepted the Bangor Punta offer. An offer of recision has been filed with the SEC, and is expected to become effective shortly.

AFFIDAVIT OF ROGER L. WALDMAN IN OPPOSITION TO MOTION

12. Plaintiff communced the instant action on May 4,
1972, and now moves to have the action determined a class action.

It is defendant Bangor Punta's position that whatever merit
there may be to class action status with regard to claims against
the other defendants (and Bangor Punta agrees with the position
of the individual defendants that there is none), plaintiff's
motion must be denied with respect to claims against Bangor Punta.

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13. Bangor Punta's contentions are fully developed in its Memorandum of Law, and the Court is respectfully referred to it. Suffice to say that Bangor Punta's position is that plaintiff's proposed class definition embraces not one but three classes, and that plaintiff is an improper representative of any. Particularly improper, in our view, is plaintiff's attempt to bring an action not only on behalf of the holders of 80,769 shares who, like herself, rejected both the Bangor Punta and Chris Craft offers and retain their shares, but also on behalf of those shareholders who took the opposite course and accepted the Bangor Punta offer. As is more fully demonstrated in the Memorandum, plaintiff is not a member of the class, and her claim proceeds from perceptions and actions totally antagonistic thereto.

WHEREFORE, defendant Bangor Punta asks that with respect to claims against Bangor Punta, plaintiff's motion be in all respects denied.

ROGER L. WALDMAN

Sworn to before me this day of January, 1974.

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AFFIDAVIT OF LILLIAN STULL IN SUPPORT OF MOTION.

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

LILLIAN STULL,

Plaintiff, 69 Civ. 440 (RO)

NORMAN J. GREENE, WALTER C. JAMOUNEAU, CHARLES W. POOL, R. K. GRIFFIN, HOWARD PIPER, THOMAS F. PIPER, WILLIAM T. PIPER, JR., and WILLIAM T. PIPER, JR., THOMAS F. PIPER and HOWARD PIPER, as EXECUTORS OF THE ESTATE OF WILLIAM T. PIPER, DECEASED, GRUMMAN AIRCRAFT ENGINEERING CORPORATION, CHRIS-CRAFT INDUSTRIES, INC., PIPER AIRCRAFT CORPORATION and BANGOR PUNTA CORPORATION. CORPORATION,

CONSOLIDATED ACTIONS

Defendants.

LILLIAN STULL,

Plaintiff, 72 Civ. 2055 (RO)

CHARLES W. POOL, WALTER C. JAMOUNEAU,
R. K. GRIFFIN, NORMAN J. GREENE,
HOWARD PIPER, THOMAS F. PIPER, WILLIAM
T. PIPER JR., and WILLIAM T. PIPER, JR.,
THOMAS F. PIPER and HOWARD PIPER, as
EXECUTORS OF THE ESTATE OF WILLIAM T.
PIPER, DECEASED, PIPER AIRCRAFT
CORPORATION and BANGOR PUNTA CORPORATION.

Defendants.

STATE OF NEW YORK) COUNTY OF NEW YORK)

LILLIAN STULL, being duly sworn, deposes and says:

1. I am the plaintiff in the above actions, which were consolidated by order of Judge Robert L. Carter, dated

AFFIDAVIT OF LILLIAN STULL IN SUPPORT OF MOTION

December 27, 1972 . This affidavit is made in both actions, as follows:

DERIVATIVE ACTION (69 Civ. 440 RO)

- (1) pursuant to Rule 56 (a) (c) and (d) of the Pederal Rule. of Civil Procedure, for summary judgment against the defer dants, except Chris-Craft Industries, Inc. ("Chris-Craft"), on the issue of liability;
- Rules of Civil Procedure, for permission to supplement, on this application, or upon an accounting sought by plaintiff (prayer "(5)"), such material testimony by depositions and documents as the individual defendants are compelled to produce, pursuant to prior discovery with which said defendants have not complied.
- Rules of Civil > 'coedure', directing that the issues of plaintiff's libb claim, alleged in the FIFTH COUNT of my Fourth Amended and Second Supplemental Complaint (¶ 57 64 thereof) shall be taken to be established as against the defendants Howard Piper, Thomas F. Piper and William T. Piper, Jr., individually and as Executors of the Estate of William T. Piper, deceased, for the purposes of accordance with the claims of the plaintiff, or as to the Court seem proper, including the tiff's reasonable expenses and attorney's fees, for defendants' wilfull refusal or failure to comply with said order; and

CLASS ACTION (72 Civ. 2955 RO)

- (f) in reply to the affidavits of Paul G. Pennoyer, Jr., Esq. and Roger L. Waldman, Esq., on plaintiff's motion for a class action determination.
- ownership of 150 Piper Aircraft shares. The Court is advised that 100 of my said shares were purchased on November 19, 1962, in the street name of my broker, J. A. Hogle & Company, at that time members of the New York Stock Exchange, for \$24 1/8 per share. A copy of part of my statement, showing this purchase for my account, is annexed (Exhibit A-1). Hogle is long since out of business and my 150 shares (by stock dividend of 50 shares) are held in street name by my broker, Edward A. Viner & Co., Inc., members of the New York Stock Exchange. A photostat of part of my latest (12/31/73) statement, showing that said 150 shares are still mine, and no one else's, is annexed (Exhibit A-2).
- 3. The "advice" of outside consultants (Pennoyer aff., 15) is rank hearsay, undisclosed to shareholders, no LA/ evidence of same being suggested in Chris-Craft, and adds nothing to this controversy. The "opinion" of First Boston Corporation, that Chris-Craft's tender offer of \$65 was "fair and equitable" (id. at p. 93,506) and that Chris-Craft's

The remainder of these documents, i.e. the blocked out portions thereof, cover transactions unrelated to Piper Aircraft. They can nevertheless be produced to the Court if the Court so desires.

⁽Chris-Craft Industries, Inc. v. Bangor Punta Corporation, CCH Fed. Sec. L. Rep. ¶ 93,816)

package of securities (without the \$10 in cash that was added) was "worth \$70-74" per Piper share (id. at p. 93,496) was not disclosed to me or to any stockholder known to me.

4. My earlier contention, that Piper Aircraft was worth more, as alleged in Stull v. Greene, (69 Civ. 440 RO), was caused by the wrongful acts and material omissions of the defendents now finally determined by the United States Court of Appeals, in Chris-Craft (id. at pp. 93,514, 93,515 - 93,516, 93,517) and by my ignorance of facts, revealed in the trial court decision of Judge Pollack in Chris-Craft, dated December 10, 1971 (CCH Fed. Sec. L. Rep. ¶ 93,301), who was reversed on the applicable law. I have no expertise and only ordinary knowledge of the stock market. I reside in East Norwalk, Connecticut, approximately since 1945. I am there employed in a community college for almost 12 years. I am the secretary to the President. I am not an attorney. I have no interest in or "potential share of legal fees" of the law firm representing me in these actions. My income is independent of my husband. My investment in Piper Aircraft was recommended by my broker, and in face of the earnings, dividends and standing of Piper Aircraft, in its field, I considered it a good investment.

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The contention was made in each of the complaints in Stull v. Greene, on file, with copies annexed to the Pennoyer affidavit (Pennoyer aff., Exh. A, ¶ 13, 22; Exh. B, ¶ 13, 25; Exh. C, ¶ 13, 25; Exh. D, ¶ 14, 21, Exh. E, ¶ 14, 18, 21 (b) and (d).)

- 5. As stated by the Court of Appeals in Chris-Craft, Piper was "one of the nation's leading manufacturers of light aircraft" (id. at p. 93,494). During the years prior to the controversy between the Piper family and Chris-Craft, Piper Aircraft fairly continuously increased its volume of business, its profits and its dividends. Piper Aircraft was a good company and the value of its stock was appreciating and dividends were good (I had received a 50% stock dividend as hereinabove noted).
- 6. In light of the circumstances, my idea of the value of Piper Aircraft of \$100 per share (Pennoyer aff., Exhs. F, ¶ 8 and G, ¶ 8), was not too different from that of other "holders" who did not accept Chris-Craft's offers, I and other Piper Aircraft public stockholders similarly situated were not informed and had no knowledge of Piper Aircraft's losses and the hazards and problems involved in both of its new models, the Pocono and Twin Comanche; and it was not disclosed to us that First Boston Corporation ("First Boston"), who was the inevestment adviser of Piper Aircraft and underwriter of Bangor Punta Corporation ("BPC"), had studied Chris-Craft's \$65 tender offer and rendered defendants an opinion that it was "fair and equitable" (id. at p. 93,506). I did not know and I and other Piper Aircraft public stockholders similarly situated were not informed that First Boston had also furnished to defendants an evaluation of Chris-Craft's package exchange offer, at \$70-74 per Piper Aircraft share, to which Chris-Craft later added \$10 in cash (id. at p. 93,496). I did not know and I and other

Piper Aircraft public stockholders similarly situated were not informed that BPC, which was on the sidelines since January, 1969, and came into the controversy after the Grumman, Southply and U.S. Concrete of Florida fiascos (id. at pp. 93,496), had made a secret agreement with and by which the Piper family was to receive a minimum of \$80 per share for their Piper Aircraft shares whatever the true value of the package BPC was offering to Piper Aircraft public stockholders might be (id. at pp. 93,496 - 93,497). I did not know and I and other Piper Aircraft public stockholders similarly situated were not informed anything about the false financials of BPC in evaluating its Bangor and Aroostock Railroad ("BAR") assets for some \$13,000,000 more than such assets were worth (id. at pp. 93, 508 - 93, 509).

7. Bearing in mind that Piper Aircraft shares had previously sold in excess of \$70 per share, that it paid good dividends, that each successive bid for our shares was higher than the previous bid, and that Chris-Craft's first bid of \$65, which the Piper family, on the official stationery of Piper Aircraft, wrote me and other public stockholders similarly situated was "inadequate", among other statements noted by the Court of Appeals in Chris-Craft, (id. at p. 93,495), it is small wonder that I and public stockholders similarly situated considered our shares to be worth more. These defendants, from the beginning and up to the time Chris-Craft gave up the battle, literally drove stockholders up a wall. On the other hand, had the public stockholders been told the truth, we could have at least made an informed judgment.

But it would seem that the individual defendants knew or were chargeable with knowledge of the BAR falsity, because they took "steps to ensure its success" (id. at p. 93,497), after secretly protecting their own selling price (id. at p. 93,497) Among these common questions is one of the holdings by the Court of Appeals that Piper Aircraft management was under a duty to speak, at least to public stockholders, and did not (id. at p. 93,505)

- 8. The defendants were well aware of important and critical facts, when they continuously, acting for Piper Aircraft, sent to all stockholders, letters through the mails, warning us against the Chris-Craft offers, and recommended BPC, when they knew that each one of Chris-Craft's offers was far better than BPC's (id. at pp. 93,497, 93, 509). Obviously, if our own management told me and the public stockholders of Piper Aircraft that the \$65 tender offer was "fair and equitable"; and that the \$70-74 exchange offer, plus \$10, totalling some \$84 was so evaluated by Piper Aircraft's financial adviser, First Boston, we would have quickly taken the cash or the exchange offer. But the individual defendants denied to us the opportunity to make such an informed judgment. No one would have been interested in the BPC offer had they known that it was inferior to Chris-Craft's offers. The holders and sellers were both kept in the dark (id. at pp. 93,509 -93,510) and thus deprived of Chris-Craft's tender and exchange offers. These were the considerations and findings of the Court of Appeals determining defendants' multiple violations of the Federal Securities laws, by which they have since and still do control Piper Aircraft and continue to spend its money to privately fight Chris-Craft (Exhibit A-3, annexed) and no dividends have been paid these past several years,
- 9. My thoughts on the adequacy of Chris-Craft's offer may have been wrong, but they were caused by the wrongdoing of the defendants and their failure to disclose. Neither I, nor

Other light aircraft manufacturers (Cessna and Beech) have paid dividends continuously, as public records show.

other public stockholders of Piper Aircraft similarly situated had knowledge of any so-called "cash purchases (Waldman aff., ¶7 - 8). We had no knowledge of an artificial market in Piper Aircraft, either. It may be that I could have sold in transactions which BPC now calls "off-exchange transactions", (Waldman aff., ¶7) and Mr. Pennoyer now calls "privately negotiated purchases" (Pennoyer aff., ¶5), but these are transactions of which I and other small public stockholders of Piper Aircraft had no knowledge and which the Court of Appeals has determined to be the result of illegal and manipulative offers, by which BPC obtained control of Piper Aircraft (id. at. p. 93,498).

- (Stull v. Greene, 69 Civ. 440 RO), allowed by the Court, are all based upon a "continuous" fight between the Piper Aircraft management and Chris-Craft (per Robert L. Carter, J., order, 12/27/73). The adequacy of Chris-Craft's tender and exchange offers may absolve it from liability in the derivative action under the determination of the Court of Appeals in Chris-Craft, but the other defendants caused the misconducts (Pennoyer aff., Exh. E., 125, 26), as now determined by the Court of Appeals in Chris-Craft, (id. at p. 93,518).
- 11. Defendants attack my standing for a class action determination (Stull v. Pool, 72 Civ. 2055 RQ), after depriving me and other Piper Aircraft shareholders similarly situated of the Chris-Craft offer when they concealed the facts and wrongfully advised against it. It is my derivative claim that defendants other than Piper Aircraft caused the misconducts

complained of (Pennoyer aff., Exh. E, ¶ 20, 26), and I accept the determination of the Court of Appeals that Piper Aircraft was the victim and not the wrongdoer (id. at p. 93,518). Accordingly, I make no affirmative class action claim of misconduct as against Piper Aircraft. This leaves Piper Aircraft a nominal defendant only in said class action (Stull v. Pool, 72 Civ. 2055 RO), in which my class action complaint is based upon facts and law developed in Chris-Craft's private action, which the Court of Appeals has recognized and the Supreme Court has denied a certiorari.

Lillian Stull

Sworn to before me this

30 day of January, 1974

GWENDOLYN A. COMNELLY Kotary Public. State of New York No. 24-8734675 Qualified in Kings County Commission Expires thanks 30, 100gb 1

AFFIDAVIT OF ROBERT A. STULL IN SUPPORT OF MOTION.

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK	
LILLIAN STULL,	
Plaintiff,	69 Civ. 440 (RO)
v,	
NORMAN J. GREENE, et al.,	
Defendants,	
LILLIAN STULL,	
Plaintiff,	72 Civ. 2055 (RO)
V	
CHARLES W. POOL., et al.,	
Defendants.	
STATE OF NEW YORK) SS.:	•••

ROBERT A. STULL, being duly sworn, deposes and says:

- I am a member of the bar of this Court and of the firm of Stull & Stull, attorneys for the plaintiff in the above consolidated actions. I am plaintiff's nephew, by marriage.
- 2. This affidavit is made (a) in support of plaintiff's motion for summary judgment against the defendants in her derivative action (Stull v. Greene, 69 Civ. 440 RO), on the issue of liability, to bring on which Judge Carter granted plaintiff an adjournment of her pending class action motion (Exhs. A-4 and A-5, annexed); (b) for sanctions or other protective relief against the individual Piper defendants for willful refusal or failure to comply with Judge Carter's order of October

- 4, 1973, directing discovery on the 16b count (FIFTH COUNT) of said derivative action; and (c) in reply on plaintiff's motion for class action determination (Stull v. Pool, 72 Civ. 2055 RO), the structuring of which will moot plaintiff's prior class action claims (Stull v. Greene, 69 Civ. 440 RO), which have all been consolidated by Judge Carter over defendants' objection.
- 3. Defendants (Pennoyer aff., ¶ 3) make two questionable statements, to wit: (i) that "Mr. Griffin and Mr. Greene were so-called outside directors" of Piper Aircraft, and (ii) that Judge Tenney "stayed" the defendants' time to answer "pending plaintiff's motion to declare the within action a class action", for which reason "the individual defendants who have been served have not answered".
- (a) The basis of the claim that the defendants Griffin and Greene (both of whom were served and appear in Stull v. Greene, (69 Civ. 440 RO) were "outside directors", is unexplained and unsupported. There is no denial that they were directors of Piper Aircraft and participated and voted with the Piper family for the Piper Aircraft resolutions alleging "inadequacy" of Chris-Craft's tender offer; the Grumman "put"; the transaction with Southply, Inc. and the transaction with U. S. Concrete Pipe Co. of Florida. Mr. Pennoyer agrees that Griffin and Greene did not resign until on or about March 25, 1969. This was subsequent to both Chris-Craft's cash offer and exchange offer as determined by the Court of Appeals in Chris-Craft Industries, Inc. v. Bangor Punta Corporation, et al. (CCH Fed. Sec. L. Rep. ¶ 93,816 at pp.

93,495 - 93,496). The purpose of this bald assertion by Mr. Pennoyer is difficult to understand. It can constitute no defense to plaintiff's derivative action in face of the Court of Appeals ruling that Piper Aircraft was the victim and not the wrongdoer (id. at p. 93,518). It can constitute no defense to a class action determination, as to which it is irrelevant, except that it is an admission of a question of fact or law that is common to the class.

(ii) The claim of a "stay" has been previously made by Mr. Pennoyer before Judge Carter and disputed by the plaintiff. Nevertheless, no motion has been made by the defendants and no order supports this claim. Mr. Pennoyer is also inconsistent with and refuted by the affidavit of co-defense counsel, Roger L. Waldman, Esq., verified June 28, 1973, on file, on behalf of Bangor Punta Corporation ("BPC") on plaintiff's motion for consolidation, which was granted by Judge Carter (order, 12/27/73). Mr. Waldman states therein (1 4) referring to the Stull v. Pool action, then before Judge Tenney:

"Judge Tenney extended defendants time to answer the complaint, ****" (Emphasis added)

The reason for defendants' default in pleading (in Stull v. Pool) may be that no responsible attorney will sign an answer controverting the allegations of the complaint in face of the findings and determination by the Court of Appeals in Chris-Craft (supra). Plaintiff previously understood that Mr. Pennoyer would cooperate in the service of process or appearance, in Stull v. Pool, by the

defendant Thomas Piper, a member of the Piper family for whom Mr. Pennoyer's firm appears in Stull v. Greene, and by defendant Norman J. Greene for whom Mr. Pennoyer's firm also appears in Stull v. Greene. Be that as it may, the served defendants in Stull v. Pool are in default in pleading on any basis.

- 4. The memorandum on behalf of the individual defendants claims (at p. 11) a potential conflict of interest, on the basis that the firm of Stull & Stull has a "substantial practice" involving representative stockholders actions based upon ownership by "Mr. or Mrs. Stull" of shares in various corporation. Three cases are cited, as follows:
- (i) Stull v. Kaymarq Consolidated Corp., (62
 Civ. 4004) CCH Fed. Sec. L. Rep. ¶ 92,508. The Court is advised
 however, that said action was brought on behalf of Dr. Leo M.
 Stull and 63 other named plaintiffs. It was brought as a private
 action. Neither "Mr. or Mrs. Stull" were parties. After long and
 arduous litigation against outstanding defense counsel, settlement
 was reached and approved by Judge Levet. It was settled on amended
 pleadings, on behalf of a class. The Court considered that our
 firm did a good job and awarded us a substantial counsel fee.
- (ii) Stull v. Georgia Pacific Corp., (66 Civ. 1473) 272 F. Supp. 148. The Court is advised however, that said action was brought on behalf of Malcolm H. Stull, an attorney and member of a law firm on Long Island. He is not and never has been connected with our law firm. That suit was one of many

representative actions against *Georgia Pacific*. It was defended by outstanding defense counsel. The derivative count therein was settled with the approval of Chief Judge Ryan. The Court considered that our firm did a good job and awarded us a substantial counsel fee.

(iii) Stull v. Baker (69 Civ. 4056) CCH Fed.

Sec. L. Rep. ¶ 94,227 is presently pending. It is both a

derivative and class action. The plaintiff is Richard J. Stull,
a member of my firm. Outstanding defense counsel raised similar
questions of conflict of representation on plaintiff's motion for
class action determination, which the Court granted. While Judge
Bryan viewed with disfavor the law partner relationship of the
plaintiff (and plaintiff has not since partaken in any legal
efforts in that case), the Court said (at p. 94,929):

"I cannot go so far as to say that plaintiff Stull will not fairly and adequately protect the interests of the class. He shares a common interest with its members. Moreover, it cannot be said that plaintiff's attorney is unqualified to conduct this litigation. It is quite plain that this is not a collusive suit."

5. At bar, as in Stull v. Baker, the derivative and class claims are not in conflict, certainly not in light of the determination of the Court of Appeals, in Chris-Craft, that Piper Aircraft was the victim of the other defendants' misconducts and not itself a wrongdoer. Plaintiff accepts this finding now. Our information and plaintiff's claim, based thereon, is that said wrongdoers, mainly the "Piper family" so referred to by the

Court in *Chris-Craft*, foisted costs and expenses of their battle with Chris-Craft upon Piper Aircraft in an amount close to \$1,000,000.

- 6. Thus, the foreseeable recovery in the <u>derivative</u> action will be (1) the above stated costs and expenses which the wrongdoers, determined by the Court of Appeals, saddled upon Piper Aircraft; (2) the 16b claim, which belongs solely to Piper Aircraft; and (3) divestiture or other equitable relief, to which Piper Aircraft is or may be entitled (see Exh. A-3), for which the Court of Appeals has likewise pointed the way.
- 7. In light of the same finding by the Court of Appeals that Piper Aircraft was the victim and not the wrongdoer, which plaintiff has accepted, it would appear that Piper Aircraft is not more than a nominal defendant in Stull v. Pool, (Class Action), against whom no recovery will be sought.
- 8. It was stated in my moving affidavit for class action determination that Piper Aircraft has sold at prices of \$30 a snare, or less. Further investigation indicates that recent market prices of Piper Aircraft have been more nearly \$10 15 per share (Exhibit A-6, annexed).
- 9. In light of public records indicating that short swing profits were made by William T. Piper, deceased (Exhibit A-7, annexed), and the refusal or failure of his executors or the individual Piper defendants to submit to deposition and to produce records, as directed by Judge Carter, plaintiff claims entitlement to relief afforded by Rules 37 (b) and 56 (e).

- 9. In conclusion, I respectfully point out that the class action claims in Stull v. Greene, are most and the recission directed by Judge Pollack to be offered the Piper Aircraft stockholders who sold to BPC is not exclusive, however appropriate to the Court it may have seemed.
- Aircraft, having been determined by the Court of Appeals, plaintiff's motion for summary judugment in the derivative action, on the issue of liability, and her motion for class action determination in Stull v. Pool, based upon established deprivation, likewise determined by the Court of Appeals in Chris-Craft, should be granted. An accounting should be directed in the derivative action. A class action should be structured in accordance with applicable law and in fairness to Piper Aircraft stockholders. Discovery directed by Judge Carter, should be enforced in manner prayed for.

Out a still

Sworn to before me this

30th day of January, 1974

GVIENDOLYN A. CONNELLY Notary Public, State of New York

Qualified in Kings County

EXHIBIT "A-1" ANNEXED TO AFFIDAVITS OF LILLIAN STULL AND ROBERT A. STULL.

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EXHIBIT "A-2" ANNEXED TO AFFIDAVITS OF LILLIAN STULL AND ROBERT A. STULL.

PI PER AIRCRAFT CORP JWard A. Viner & Co., Inc. S S A D. NUNDER 22 22-0475 | 004 | 1004 | 15.00 NATE | 15.00 CLIVERLY CINCLE ELIT NORWALK COMN 06053 1365 HANCOCK ST. 82163 QUINCY, MASS. BRANCH:

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(SEE REVERSE SIDE)

EXHIBIT "A-3" ANNEXED TO AFFIDAVITS OF LILLIAN STULL AND ROBERT A. STULL.

THE NEW YORK TIMES, FRIDAY, JANUARY 25, 1974

dent and chief executive officer of the Piper Aircraft Corporation, has resigned after more than four years in the post. Mr. Mergen, who is 57 years old, is a veteran of the aircraft industry and was formerly an executive of the Curtiss-Wright Corporation and the Lycoming division of the Avco Corporation.

Piper, which manufactures small planes, has in recent years been in the middle of a battle between the Bangor Punta Corporation and Chris-Craft Industries, Inc. Christowns 43 per cent of Piper and Bangor Punta owns 52 per cent, but Bangor Punta has been enjoined against voting 14 per cent of the total Piper stock.

After Mr. Mergen's resignation, the Piper board Joseph M. Mergen, presi-

total Piper stock.

After Mrt Mergen's resignation, the Piper board elected William G. Gunn—a 64-year-old vice president of Bangor Punta and a long-time official of its Smith & Wesson division—as interimented executive. The four Chris-Craft directors, however, voted against Mr. Gunn.

EXHIBIT "A-3"

The plaintiff desires to adjourn her class action motion, originally returnable December 14, 1973, and presently adjourned to January 25, 1974, at defendants' requests.

After studying the opposing papers of the individual defendants, received approximately one week late, plaintiff has decided to move for summary judgment on her derivative claim (Stull v. Greene). The sense of this is to remove any question of conflict of interest.

Anticipating that one or more defendants may oppose an adjournment, and although Your Honor is conversant with the problems of these cases, it should be mentioned that it is plaintiff's position that under the Court of Appeals ruling in Chris-Craft, Piper Aircraft was not the wrongdoer, but instead the victim. Thus, the foreseeable recovery in the derivative action will largely be (1) the costs and expenses which the wrongdoers foisted upon Piper Aircraft, as determined in Chris-Craft, (2) the 16(b) claim, and (3) divestiture for which the Court of Appeals has also pointed the way.

If, based upon the principles of res adjudicata and collateral estoppel, Your Honor determines the derivative action in favor of the plaintiff, on the issue of liability, such determination, plus the limited issues of this derivative action, plus the determination in the Court of Appeals in

EXHIBIT "A-4" ANNEXED TO AFFIDAVITS OF LILLIAN STULL AND ROBERT A. STULL

Honorable Robert L. Carter

-2- January 18, 1974

chris-Craft that Piper Aircraft was not the wrongdoer, would leave the issue of conflict of interest moot or easkily resolved.

An adjournment to February 8, 1974, is respectfully requested, so that we can serve the summary judgment motion timely for that date.

Respectfully yours,

Robert A. Stull

cc: All Counsel

EXHIBIT "A-5" ANNEXED TO AFFIDAVITS OF LILLIAN SMOUNT

STULL AND ROBERT A. STULL 35 BROADWAY, NEW YORK, N. Y. 100

DIGBY 4-8900

WASHINGTON, D. C. OFFICE 8150 17TH STREET, N. W. WASHINGTON, B. C. 20036

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January 22, 1974

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Sonorable Robert L. Carter United States District Judge United States Court House Foley Square New York, New York 10007

> Re: Stull v. Greene, et al. (69 Civ. 449); Stull v. Pool, et al. (72 Civ. 2055)

Dear Judge Carter:

We are writing on behalf of the individual defendants who have been served in the captioned actions and in response to the letter dated January 18, 1974 from Robert A. Stull addressed to you.

For the reasons hereinafter set forth, we oppose Mr. Stull's request for an adjournment of the return date of plaintiff's motion for class action determination in Stull v. Pool, at al. so that he may move at the same time for summary judgment on the derivative claim in Stull v. Greene, at al. We also disagree with his contention that such motion for summary judgment will "remove any question of conflict of interest."

Rather than simplifying matters, a summary judgment motion on plaintiff's derivative claim in Greece will EXHIBIT "A-5" ANNEXED TO AFFIDAVITS OF LILLIAN STULL AND ROBERT A. STULL

-2- January 22, 1374

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make them even more complex. First, there is the obvious burden to the Court in having simultaneously to decide two sizable and interrelated motions in these consolidated cases which wrise out of the same events and alleged misconduct on the part of the defendants. Second, the derivative claim in Groene as to which plaintiff proposes to move for summary judgment is one of the bases on which the individual defendants contend class action treatment in inappropriate in Pool. Even if plaintiff were to succeed on her motion for summary judgment, these would remain a conflict of interest because Piper Aircraft Corporation ("Piper") is a defendant from which plaintiff seeks recovery in Pool.

A holding in favor of Piper in Greene would be wholly inconsistent with the claims asserted by plaintiff against the corporation in Pool, and would undersoore, not eliminate, plaintiff's conflict of interest. It would appear necessary, before plaintiff moves for summary judgment in Greene, to resolve the issue raised in the individual defendants' opposition papers in Pool as to whether plaintiff's derivative claims in Greene create acconflict of interest. A determination of plaintiff's class action motion in Pool may well resolve the question whether plaintiff has a conflict of interest; the proposed motion for summary judgment in Greene clearly will not.

Another reason that the class action motion should be decided first is that, as set forth in the individual defendants' opposition papers, plaintiff's attempt to represent the class described in her complaint and motion papers in Fool presents conflicts of interest wholly apart from her assertion of a derivative cause of action in Graeha. Accordingly, maither resolution of the derivative/representative conflict in Pool, nor determination of plaintiff's proposed summary judgment motion in Graeha will reconcile the other conflicts arising out of such matters as plaintiff's being represented by her husband, the lack of typicality between plaintiff's claims and those of the class she seeks to represent, and the inconsistent judicial admissions in papers filed by plaintiff in both Graeha and Pool which hear on her ability to serve as an adequate class representative.

EXHIBIT "A-5" ANNEXED TO AFFIDAVITS OF LILLIAN STULL AND ROBERT A. STULL

COPY

-3- January 22, 1974

In view of the foregoing, it seems inconceivable that a motion for summary judgment on the derivative claim in Greene would, as Mr. Stull asserts, "leave the issue of confillet of interest most or eastily [sic] resolved." Aside from the complexity and burden likely to be imposed by plaintiff's motion for summary judgment, Judge Tenney, in May 1973, directed that all proceedings in Stull v. Pool, et al. be stayed pending determination of the class action question. That order, which also would appear to preclude proceedings in Greene by virtue of Your Monor's preclude proceedings in Greene by virtue of Your Monor's modern order of consolidation, in a sufficient basis, independent of the matters set forth above, for denying the application contained in Mr. Stull's latter.

We therefore respectfully submit that there is no reasonable justification for adjourning the return date of plaintiff's motion for class action determination and that Judge Tenney's directive that the class action question be resolved before plaintiff is permitted to make further applications to this Court.

Respectfully yours,

CHADSOURIE, PARKE, WHITESIDE

S WOLFF

A Headur of the Firm

BA HYND

es: All Counsel

EXHIBIT "A-6" ANNEXED TO AFFIDAVITS OF LILLIAN STULL AND ROBERT A. STULL

THE NEW YORK TIMES - January 11, 1974

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EXHIBIT "A-6" ANNEXED TO AFFIDAVITS OF LILLIAN STULL AND ROBERT A. STULL

SECURITIES AND EXCHANGE COMMISSION Washington, D.C. 20549

FORM 4

STATEMENT OF CHANGES IN BENEFICIAL OWNERSHIP OF SECURITIES

Filed pursuant to Section 16(n) of the Securities Exchange Act of 1934, Section 17(a) of the Public Utility Holding Company Act of 1935, or Section 30(i) of the Investment Company Act of 1940.

	Piper Aircraft Corporation (Reme of linted company, helding company or investment company)
	W T Piner Ir.
	Piper Aircraft Corporation, Lock Haven, Pa. 17745
elations	hip of such person to company named above. (see instruction a) President and direct
	Statement for Calendar Month of
	CHANCES DURING MONTH AND MONTH-END OWNERSHIP (See Instruction 6)

CHANGES DURING MO	in disa atm	nulli-Fun (Junensun	(See Instruct	
	DATE	ABOUNT BOUGHT	AMOUNT BOLD or otherwise disposed of	NATURE OF OUNERSHIP	OHA CO

TITLE OF SECURITY (See instruction 7)	DATE OF TRANSACTION (See instruc-	ANOUNT BOUGHT or otherwise acquired (See instruc- tion 9)	AMOUNT 50LD or otherwise disposed of (Ser instruc- tion 9)	HATURE OF OUNERSHIP (See Instruc- tion 10)	AMOUNT ODNED beneficiall at end of month (nee instruc-
Common Stock	1/8/69	67,500		indirect	
Common Stock	1/8/69	37,500	-	indirect	
Common Stock .			1	direct	38,703
Common Stock				indirect	1,560
	1				

REMARKS: (ner instruction in 1. Holdings of Castanea Realty Company. 2. Holdings of 'Piper Investments Company. 3. Holdings of Margaret Bush Piper, wife of W. T. Piper, Jr. On the date of transaction W. T. Piper, Jr. received by gift 25% of all shares then outstanding of Castanea Realty Company and of Piper Investment Company. Mi Carlo

Date of statement April 25, 1969

EXHIBIT "A-6" ANNEXED TO AFFIDAVITS OF LILLIAN STULL AND ROBERT A. STULL

SECURITIES AND EXCHANGE COMMISSION Washington, D.C. 20549

FORM 4

STATEMENT OF CHANGES IN DENEFICIAL OWNERSHIP OF SECURITIES

Filed pursuant to Section 16(a) of the Securities Exchange Act of 1934, Section 17(a) of the Public Utility Holding Company Act of 1935, or Section 30(f) of the Investment Company Act of 1940.

Piper Aircraft Corporation	
(Rame of listed company, holding company or investment company)	
W. T. Piper	
Piner Aircraft Corporation, Lock Haven, Pa.	17745
(Business address of such person; street, city, zone, state)	
Relationship of such person to company named above. (500 instruction 6) Chairman of the Board	

CHANGES DURING MONTH AND MONTH-END OWNERSHIP (... Instruction o)

TITLE OF SECURITY (See instruction 7)	DATE OF TRANSACTION (800 instruc-	ADDUNT BOUGHT or otherwise acquired (See instruc- tion 9)	Amount 6000 or otherwise disposed of (3ee instruction 0)	MATURE OF OUNERSHIP (See instruc- tion 10)	AMOUNT OFFICE beneficially at end of month (See instruc- tion 9)
Common Stock Common Stock Common Stock Common Stock	1/8/69		67,500	indirect ² direct indirect ³	73,320

REMARKS: (no. instruction in]. Holdings of Castanea Realty Company. Inc.: 2. Holdings of Piper Investment Company.: 3. Holdings of Clara S. Piper, wife of W. T. Piper.

(Rider attached)

Date of statement ___April 25, 1969

EXHIBIT "A-6" ANNEXED TO AFFIDAVITS OF LILLIAN STULL AND ROBERT A. STULL

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SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

1.D.

FORM 4

STATEMENT OF CHANGES IN BENEFICIAL OWNERSHIP OF SECURITIES

Filed pursuant to Section 16(a) of the Securities Exchange Act of 1934. Section 17(a) of the Public Utility Holding Company Act of 1935, or Section 36(f) of the Investment Company Act of 1940.

c company).
sylvania 17745
Chairman of the Board

Statement for Calendar Month of __February____, 19 69 - AMENDED

CHANGES DURING MONTH AND MONTH-END OWNERSHIP (... Instruction a)

TITLE OF SECURITY	DATE OF TRANSACTION	AMOUNT BOUGHT or otherwise acquired	disposed of	NATURE OF OTNERSHIP	AMOUNT OWNED beneficiall at end of worth
	(Net Instruc-	(See Instruc-	(Sae instruc-	tion 10)	(See Instruc
Common Stock	2/20/69 2/26/69 2/27/69 2/28/69	1,000 500 500 500		Indirect ¹ (1) (1) (1)	70,400
Common Stock				Direct Indirect ²	38, 203 37, 500
Common Stock				Indirect 3	1,560

REMARKS: (acr instruction to 1. Holdings of Castania Realty Company. 2. Holdings of Piper Investment Company. 3. Holdings of Margaret Dush Fiper, wife of W. T. Fiper, Jr. W. T. Piper, Jr. owns 25% of all the outstanding shares of Castanea Realty Company and of the Piper Investment Company.

Date of statement __Inno.9_1952____

EXHIBIT "A-6" ANNEXED TO AFFIDAVITS OF LILLIAN STULL AND ROBERT A. STULL

SECURITIES AND EXCHANGE COMMISSION
Rashington, D.C. 20549

FORM 4

STATEMENT OF CHANGES IN BENEFICIAL OWNERSHIP OF SECURITIES

Filed pursuant to Section 16(a) of the Securities Exchange Act of 1934, Section 17(a) of the Public Utility Holding Company Act of 1935, or Section 30(f) of the Investment Company Act of 1940.

	Inted company, hol				
	Name of person who	se ownership is	reported)		
	Lock H	laven, Pa. 17	745		
(Bastuses	address of such p	ereon; street,			
tionship of such person to c	company named at	bove. (see snee	ruetion 6)	President	and
attonionip or onen person	Direct		1.		
Statement fo	or Calendar M	lonth of	August	, 1969	
CHANGES DURING	M ONA HTHOM	ONTH-END C	WHERSHIP	(See instruct	
TITLE OF SECURITY	DATE OF TRANSACTION	AMOUNT BOUGHT or otherwise nequired	AMOUNT SOLD , or otherwise disposed of	NATURE OF OWNERSHIP	AMOUNT OWNED beneficial at end of
(See instruction 7)	(See instruc-	(See instruc- tion 9)	(See instruc-	(See instruc- tion 10)	(See instru
			-	•	
Common Stock	8/7/69		*84,025	Indirect	
(Holdings of Castanea		2)			
	•		•37,500		1
Common Stock (Holdings of Piper Inv	estraent Company	ny)	37,300		
Common Stock	8/7/69		• 1,560		
(Holdings of Margare		(£2)	1 .		
(*38,203	Direct	1
Common Stock	8/7/69		30,20	Direct	
;				'	

187. Love.

Date of statement August 29, 1969

OPINION AND ORDER OF RICHARD OWEN, D. J.

LILLIAN STULL,

Plaintiff,

against

CHARLES W. POOL, WALTER C. JAMOUNEAU, R. K. GRIFFIN,
NORMAN J. GREENE, HOWARD PIPER, THOMAS F. PIPER,
WILLIAM T. PIPER R., and WILLIAM T. PIPER, JR.,
THOMAS F. PIPER and HOWARD PIPER as Executors of
the Estate of William T. Piper, Deceased, PIPER
AIRCRAFT CORPORATION, and BANGOR PUNTA CORPORATION,

Defendants.

72 Civ. 2055 (R.O.)

_v

United States District Court S. D. New York April 30, 1974

Stull & Stull, New York, N. Y. for Plaintiff

Chadbourne, Parke, Whiteside & Wolff, New York, N. Y. for Defendants, Charles W. Pool, Walter C. Jamouneau, R. K. Griffin, Howard Piper, William T. Piper, Jr., and William T. Piper, Jr. and Howard Piper as Executors of the Estate of William T. Piper, Deceased

Webster, Sheffield, Fleischmann, Hitchcock & Brookfield, New York, N. Y. for Defendant, Bangor Punta Corporation

OPINION AND ORDER

I assume, without deciding, that this action is an appropriate one for class treatment, arising as it does from the contest between Chris-Craft Industries, Inc. and Bangor Punta Corporation for control of Piper Aircraft Corporation in 1969. There the Court of Appeals found that in the context of a tender offer by Cris-Craft, letters sent by the Piper family which managed Piper Aircraft to shareholders to induce them to reject the offer, contained material misstatements and omissions. Chris-Craft Industries, Inc. v. Bangor Punta Corporation, 480 F. 2d 341 (2d Cir. 1973).

Plaintiff, on January 23, 1969, was the owner of 150 shares of the common (voting stock of Piper Aircraft. On that date Chris-Craft, seeking to control Piper, made a tender offer to the public stockholders of Piper soliciting the purchase of 300,000 shares of Piper common stock at \$65 per share. Chris-Craft's initial and subsequent efforts into August 1969* to

^{*}Chris-Craft later offered a package valued by First Boston Corporation at \$70-74 a share, and still later increased the package by \$10 in cash.

obtain control met strong resistence from Piper which considered Chris-Craft to be a corporate raider. Piper thereupon sought to block Chris-Craft's attempted take-over and, by the dissemination of a press release and letters, to convey to its shareholders its opinion that Chris-Craft's tender offers were not in their best interests.

It is the plaintiff's position that the facts thus communicated to her and other present and former shareholders by management were false and misleading and that she and they were damaged in that they were deprived of the ability to make an informed judgment on whether or not to sell their shares to Chris-Craft, which plaintiff claims all might have done had they been properly informed.

plaintiff asserts that the class she desires
to represent would include "the public stockholders
of Piper Aircraft Corporation common shares who were
deprived of tender offers made to them by ChrisCraft on or about and between January 23, 1969 and
August 4, 1969."* However, I need not reach a determination of the "class" herein, for, however defined, I

^{*}Defendants contend that there is no class that can be so defined. They point out that there are at least three different courses stockholders followed during this period: some (including plaintiff) rejected both the Chris-Craft offer and a competing Bangor Punta offer and still hold their shares, some accepted the Bangor Punta offer and sold to it, and some rejected both offers and subsequently sold on the open market.

conclude that under Fed. R. Civ. P. 23(a) (4), plaintiff is not an appropriate representative of any class.

The threshold fact which compels disqualification is that the plaintiff, Lillian Stull, is the wife of Richard Stull, a member of the firm of Stull and Stull, who is her personal attorney in this litigation and who, with his firm, would represent her and others of the class, were it to be declared. potential conflict of interest inherent in this situation is obvious. To paraphrase an observation of this Court in Cotchett v. Avis, 56 F.R.D. 549 (S.D.N.Y. 1972), the difficulty I have with this situation lies in the fact that the possible recovery of Mrs. Stull as a member of the class is far exceeded by the financial interest she and her husband, as a marital unit, might have in the legal fees engendered by this lawsuit. A number of recent decisions accord with this view. See Shields v. First National Bank, 56 F.R.D. 442 (D. Ariz 1972); Krieger v. European Health Spa, Inc., 56 F.R.D. 104 (E.D. Wisc. 1972); and Graybeal v. American Savings & Loan Assn., 59 F.R.D. 7 (D.D.C. 1973), where the Court stated at pp. 13-14:

... In any class action there is always the temptation for the attorney for the class to recommend settlement on terms less favorable to his clients because a large fee is part of the bargain. The impropriety of such a



position is increased where, as here, the attorney is also the representative who brought the action on behalf of the class, and where, as here, the potential recoveries by individual members, including representatives, of the class are likely to be very small in proportion to the total recovery by the class as a whole. Thus Plaintiffs may stand to gain little as class representatives, but may gain very much as attorneys for the class.

Also appropriate here in the recent observation of the Court of Appeals for this Circuit in Alpine of the Court of Appeals for this Circuit in Alpine

Pharmacy Inc. v. Chas. Pfizer & Co. Inc., 481 F. 2d

1045 (1973) declaring that an attorney in a class action "serves in something of a position of public trust."

Given this, the clear inherent conflict renders plaintiff an inappropriate representative of potential class members whose interests must be protected under Rule 23 (a) (4).

Further, the plaintiff has rendered herself vulnerable to embarrassing cross-examination in this action by reason of contradictory statements made under oath in pleadings in <u>Stull v. Green</u>, 69 Civ. 440, instituted by her in this Court asserting derivative

claims on behalf of Piper arising from the same Chris-Craft contest for control.*

Thus, whereas, in this action plaintiff asserts that the Chris-Craft tender offer of \$65 per share was a "fair price" for the Piper shares which she was wrongfully induced not co consider, in the first complaint in Stull v. Green, personally verified February 3, 1969, she alleges that the \$65 was less than the "fair" value (par. 13) and constituted a "raid" on Piper (par. 8). In Stull v. Green's fourth complaint, personally verified May 29, 1969, plaintiff, again referring to the \$65 Chris-Craft tender offer, alleges that the true value of Piper shares was in excess of \$100 (par. 9) and that Chris-Craft's \$65 offer was "grossly and unconscionably inadequate." (par. 8, 37). These scathing assertions tarnish plaintiff's present ability to be the representative of all stockholders who were allegedly induced by defendant's material misstatements and omissions not to accept the \$65 offer.**

^{*}Defendants assert that the conflict in this situation further mandates disqualification of Mrs. Stull as a class representative. Ruggiero v. American Bioculture, Inc., 56 F.R.D. 93 (S.D.N.Y. 1972); Hawk Industries, Inc. v. Bausch & Lomb, Inc., 59 F.R.D. 619 (S.D.N.Y. 1973). This would seem to be a valid position, but I do not reach this question.

^{**}This is particularly so here where plaintiff demanded a jury. Plaintiff, becoming aware of this on oral argument, thereafter unsuccessfully endeavored to waive a jury.

Given the foregoing, the plaintiff's motion for a determination that her action be maintained as a classaction is denied

So Ordered:

U. S. D. J.

204a

PLAINTIFF'S NOTICE OF APPEAL.

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

LILLIAN STULL,

72 Civ. 2055 KO

Plaintiff,

- against -

CHARLES W. POOL, et al.,

Defendants.

NOTICE OF APPEAL 28 12 00 PM 1 (Plaintiff) S 12 00 PM 1

SIRS:

PLEASE TAKE NOTICE, that the Plaintiff herein hereby appeals from the order of Honorable Richard Owen, United States District Judge, made April 30, 1974 and entered in the Office of the Clerk of this Court, which said order denied plaintiff's motion for a determination that her action be maintained as a class action.

Dated: New York, N. Y.

May 23, 1974

Yours, etc.,

MILBERG & WEISS

Lawrence Milberg
Attorneys for Plaintiff
Office & P.O. Address
One Pennsylvania Plaza
New York, N. Y. 10001

TO:

Chadbourne Parke Whiteside & Wolff, Esqs.
Attorneys for Defendants
30 Rockefeller Plaza
New York, N. Y.

W ebster Sheffield Fleischmann Hitchcock & Brookfield One Rockefeller Plaza New York, N. Y.

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Attorney for

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WESSTER SHEFFIELD FLEIS JUMANN
HITCHCOCK & BOOK

ATTORNEYS FOR Bançon Punta Corp.

COPY RECEIVED AUG 2 0 1974 CHADBOURNE, PARKE, WHITESIDE & WOLFF. Attorneys for Deft.
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